CONFERENCE ON DISARMAMENT

CD/1083
13 June 1991

Original: ENGLISH

RECOMMENDATION

by the Ad Hoc Committee on Chemical Weapons

(Adopted by the Conference on Disarmament at the 595th plenary meeting on 13 June 1991)

Taking into account the present stage of its work and with the view, as a matter of high priority, to intensifying ongoing negotiations the Ad Hoc Committee on Chemical Weapons recommends to the Conference on Disarmament that, without prejudice to any further decision on the organization and programme of the work of the Committee during the period up until the start of the 1992 session of the Conference on Disarmament, the Ad Hoc Committee hold an additional regular session of limited duration during the period 8 to 19 July 1991.

GE.91-61289/0085A

CONFERENCE ON DISARMAMENT

CD/1084
14 June 1991

Original: ENGLISH

LETTER DATED 7 JUNE 1991 FROM THE PERMANENT REPRESENTATIVE OF NORWAY ADDRESSED TO THE PRESIDENT OF THE CONFERENCE ON DISARMAMENT TRANSMITTING A RESEARCH REPORT ON VERIFICATION OF A CHEMICAL WEAPONS CONVENTION ENTITLED "DEVELOPMENT OF PROCEDURES FOR VERIFICATION OF ALLEGED USE OF CHEMICAL WARFARE AGENTS. APPLICATION OF PROCEDURES AFTER A SIMULATED CHEMICAL ATTACK ON AN AIR BASE. PART X" *

I have the honour to transmit to you a research report entitled Development of procedures for verification of alleged use of chemical warfare agents. Application of procedures after a simulated chemical attack on an air base. Part X, published by the Royal Norwegian Ministry of Foreign Affairs.

I would appreciate if the report would be circulated as an official CD document.

(Signed) Oscar Voernø
Ambassador
Permanent Representative

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* A limited distribution of the document in English only has been made to the members of the Conference on Disarmament. Additional copies are available from the Permanent Mission of Norway in Geneva.

GE.91-61301/0459H

CONFERENCE ON DISARMAMENT

CD/1085
20 June 1991

Original: ENGLISH

Decision on the Mandate of the Ad Hoc Committee on Chemical Weapons

(Adopted by the Conference at its 596th plenary meeting on 20 June 1991)

The Conference on Disarmament, referring to its decision of 14 February 1991 on the re-establishment of the Ad Hoc Committee on Chemical Weapons (CD/1058), decides to further mandate this Committee to intensify, as a priority task, the negotiations on a multilateral convention on the complete and effective prohibition of the development, production, stockpiling and use of chemical weapons and on their destruction with the view to striving to achieve a final agreement on the Convention by 1992. A report on the progress of the negotiations, should be recorded in the report which this Ad Hoc Committee will submit to the Conference at the end of the third part of its 1991 session.

GE.91-61427/6436a

CONFERENCE ON DISARMAMENT

CD/1086
28 June 1991

Original: ENGLISH

LETTER DATED 25 JUNE 1991 FROM THE DEPUTY REPRESENTATIVE OF THE UNITED STATES OF AMERICA ADDRESSED TO THE PRESIDENT OF THE CONFERENCE ON DISARMAMENT TRANSMITTING INFORMATION REGARDING UNITED STATES EXPORT CONTROLS ON CHEMICAL WEAPONS-RELATED MATERIALS AND TECHNOLOGY AND UNITED STATES DOMESTIC LEGISLATION TO ENFORCE THEM

I have the honour to forward to you the attached package of information regarding United States export controls on chemical weapons-related materials and technology and our domestic legislation to enforce them.

I request that you take the appropriate steps to register this package of information as an official document of the Conference on Disarmament and to have it distributed to all member delegations and non-member States participating in the work of the Conference.

(Signed) M. LYALL BRECKON
Deputy Representative of the
United States of America to
the Conference on Disarmament

GE.91-61542/6482a

Information Package on U.S. Export Controls

In his May 13, 1991 Chemical Weapons Convention initiative, President Bush announced that the United States would provide extensive information to other states regarding U.S. export controls on chemical weapons-related materials and technology and U.S. domestic legislation to enforce them. The U.S. CD delegation is pleased to make this information available to all interested states. We hope that it will be useful to other states engaged in the process of enacting similar non-proliferation controls.

The following materials are included in this package:

- Executive Order 12735. Issued by the White House on November 16, 1990, Executive Order 12735 instructed all heads of departments or agencies of the United States government to take appropriate actions to halt CW/BW proliferation, including controls on any exports that would assist a country in acquiring the capability to develop, produce, stockpile, deliver or use chemical or biological weapons.

- White House Fact Sheet on Enhanced Proliferation Control Initiative. This December 13, 1990 statement launches the Enhanced Proliferation Control Initiative (EPCI) as a response to the President's call for increased U.S. government efforts to combat the spread of weapons of mass destruction.

- White House Press Statement and Fact Sheet on New Nonproliferation Initiatives. This March 7, 1991 statement announces the publication of regulations intended to implement both Executive Order 12735 and the Enhanced Proliferation Control Initiative.

- Federal Register Regulations. On March 13, 1991, the Department of Commerce issued implementing regulations which, inter alia, established worldwide export controls on fifty chemical weapons precursors identified by the Australia Group list.

THE WHITE HOUSE

Office of the Press Secretary

November 16, 1990

EXECUTIVE ORDER

12735

CHEMICAL AND BIOLOGICAL WEAPONS
PROLIFERATION

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.), the National Emergencies Act (50 U.S.C. 1601 et seq.), and section 301 of title 3 of the United States Code,

I, GEORGE BUSH, President of the United States of America, find that proliferation of chemical and biological weapons constitutes an unusual and extraordinary threat to the national security and foreign policy of the United States and hereby declare a national emergency to deal with that threat.

Accordingly, I hereby order:

Section 1. International Negotiations. It is the policy of the United States to lead and seek multilaterally coordinated efforts with other countries to control the proliferation of chemical and biological weapons. The Secretary of State shall accordingly ensure that the early achievement of a comprehensive global convention to prohibit the production and stockpiling of chemical weapons, with adequate provisions for verification, shall be a top priority of the foreign policy of the United States, and the Secretary of State shall cooperate in and lead multilateral efforts to stop the proliferation of chemical weapons.

Sec. 2. Imposition of Controls. As provided herein, the Secretary of State and the Secretary of Commerce shall use their authorities, including the Arms Export Control Act and Executive Order No. 12730, respectively, to control any exports that either Secretary determines would assist a country in acquiring the capability to develop, produce, stockpile, deliver, or use chemical or biological weapons. The Secretary of State shall pursue early negotiations with foreign governments to adopt effective measures comparable to those imposed under this order.

Sec. 3. Department of Commerce Controls. (a) The Secretary of Commerce shall prohibit the export of any goods, technology, or services subject to his export jurisdiction that the Secretary of Commerce and the Secretary of State determine, in accordance with regulations issued pursuant to this order, would assist a foreign country in acquiring the capability to develop, produce, stockpile, deliver, or use chemical or

biological weapons. The Secretary of Commerce and the Secretary of State shall develop an initial list of such goods, technology, and services within 90 days of this order. The Secretary of State shall pursue early negotiations with foreign governments to adopt effective measures comparable to those imposed under this section.

(b) Subsection (a) will not apply to exports if their destination is a country with whose government the United States has entered into a bilateral or multilateral arrangement for the control of chemical or biological weapons-related goods (including delivery systems) and technology, or maintains domestic export controls comparable to controls that are imposed by the United States with respect to such goods and technology or that are otherwise deemed adequate by the Secretary of State.

(c) The Secretary of Commerce shall require validated licenses to implement this order and shall coordinate any license applications with the Secretary of State and the Secretary of Defense.

Sec. 4. Sanctions Against Foreign Persons. (a) Sanctions shall be imposed on foreign persons with respect to chemical and biological weapons proliferation, as specified in subsections (b)(1) through (b)(5).

(b)(1) Sanctions shall be imposed on a foreign person if the Secretary of State determines that the foreign person on or after the effective date of this order knowingly and materially contributed to the efforts of a foreign country referred to in subsection (2) to use, develop, produce, stockpile, or otherwise acquire chemical or biological weapons.

(2) The countries referred to in subsection (1) are those that the Secretary of State determines have either used chemical or biological weapons in violation of international law or have made substantial preparations to do so on or after the effective date of this order.

(3) No department or agency of the United States Government may procure, or enter into any contract for the procurement of, any goods or services from any foreign person referred to in subsection (1). The Secretary of the Treasury shall prohibit the importation into the United States of products produced by that foreign person.

(4) Sanctions imposed pursuant to this section may be terminated or not imposed against foreign persons if the Secretary of State determines that there is reliable evidence that the foreign person concerned has ceased all activities referred to in subsection (1).

(5) The Secretary of State and the Secretary of the Treasury may provide appropriate exemptions for procurement contracts necessary to meet U.S. operational military requirements or requirements under defense production agreements, sole source suppliers, spare parts, components, routine servicing and maintenance of products, and medical and humanitarian items. They may provide exemptions for contracts in existence on the date of this order under appropriate circumstances.

Sec. 5. Sanctions Against Foreign Countries. (a) Sanctions shall be imposed on foreign countries with respect to chemical and biological weapons proliferation, as specified in subsections (b) and (c).

(b) The Secretary of State shall determine whether any foreign country has, on or after the effective date of this order, (1) used chemical or biological weapons in violation of international law; or (2) made substantial preparations to use chemical or biological weapons in violation of international law; or (3) developed, produced, or stockpiled chemical or biological weapons in violation of international law.

(c) The following sanctions shall be imposed on any foreign country identified in subsection (b)(1) unless the Secretary of State determines that any individual sanction should not be applied due to significant foreign policy or national security reasons. The sanctions specified in this section may be made applicable to the countries identified in subsections (b)(2) or (b)(3) when the Secretary of State determines that such action will further the objectives of this order pertaining to proliferation. The sanctions specified in subsection (c)(2) below shall be imposed with the concurrence of the Secretary of the Treasury.

(1) Foreign Assistance. No assistance shall be provided to that country under the Foreign Assistance Act of 1961 or the Arms Export Control Act other than assistance that is intended to benefit the people of that country directly and that is not channeled through governmental agencies or entities of that country.

(2) Multilateral Development Bank Assistance. The United States shall oppose any loan or financial or technical assistance to that country by international financial institutions in accordance with section 701 of the International Financial Institutions Act (22 U.S.C. 262d).

(3) Denial of Credit or Other Financial Assistance. The United States shall deny to that country any credit or financial assistance by any department, agency, or instrumentality of the United States Government.

(4) Prohibition on Arms Sales. The United States Government shall not, under the Arms Export Control Act, sell to that country any defense articles or defense services or issue any license for the export of items on the United States Munitions List.

(5) Exports of National Security-Sensitive Goods and Technology. No exports shall be permitted of any goods or technologies controlled for national security reasons under Export Administration Regulations.

(6) Further Export Restrictions. The Secretary of Commerce shall prohibit or otherwise substantially restrict exports to that country of goods, technology, and services (excluding agricultural commodities and products otherwise subject to control).

(7) Import Restrictions. Restrictions shall be imposed on the importation into the United States of articles (which may include petroleum or any petroleum product) that are the growth, product, or manufacture of that country.

(8) Landing Rights. At the earliest practicable date, the Secretary of State shall terminate, in a manner consistent with international law, the authority of any air carrier that is controlled in fact by the government of that country to engage in air transportation (as defined in section 101(10) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1301(10)).

Sec. 6. Duration. Any sanctions imposed pursuant to sections 4 or 5 shall remain in force until the Secretary of State determines that lifting any sanction is in the foreign policy or national security interests of the United States or, as to sanctions under section 4, until the Secretary has made the determination under section 4(b)(4).

Sec. 7. Implementation. The Secretary of State, the Secretary of the Treasury, and the Secretary of Commerce are hereby authorized and directed to take such actions, including the promulgation of rules and regulations, as may be necessary to carry out the purposes of this order. These actions, and in particular those in sections 4 and 5, shall be made in consultation with the Secretary of Defense and, as appropriate, other agency heads. The Secretary concerned may redelegate any of these functions to other officers in agencies of the Federal Government. All heads of departments and agencies of the United States Government are directed to take all appropriate measures within their authority to carry out the provisions of this order, including the suspension or termination of licenses or other authorizations.

Sec. 8. Judicial Review. This order is not intended to create, nor does it create, any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, officers, or any other person.

Sec. 9. Effective Date. This order is effective immediately.

This order shall be transmitted to the Congress and published in the Federal Register.

GEORGE BUSH

THE WHITE HOUSE,
November 16, 1990.

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THE WHITE HOUSE

Office of the Press Secretary

December 13, 1990

FACT SHEET ON ENHANCED PROLIFERATION CONTROL INITIATIVE

Responding to the President's call in his speech before the UN General Assembly to "redouble our efforts to stem the spread" of missile technology as well as nuclear, chemical, and biological weapons, an interagency study proposed a series of measures designed to ensure that these weapons and the technology to make them do not fall into the wrong hands. The "Enhanced Proliferation Control Initiative" includes the following elements:

1. The United States shall adopt worldwide export controls on 50 precursors for chemical weapons and shall urge all nations that manufacture these chemicals to adopt equivalent controls.

2. Export licenses shall be required for proposed exports of potentially chemical-weapon-related industrial facilities, and related designs and technology.

3. Export licenses shall be required for any export destined for a publicly-listed company, ministry, project, or other entity that is engaged in activities of proliferation concern.

4. Export licenses shall be required when an exporter knows or is informed by the U.S. Government that a proposed export may be destined for a project of proliferation concern. (A similar regulation already applies to exports of possible nuclear-weapon concerns.)

5. Current regulations shall be supplemented by control lists of (i) dual-use equipment and technology related to chemical weapons, biological weapons, and missiles, and (ii) countries to which such equipment and technology shall be controlled.

6. Civil and criminal penalties shall be imposed upon U.S. citizens who knowingly participate in activities that promote the spread of missile technology and chemical weapons. (Similar penalties already apply in the areas of nuclear and biological weapons.)

These measures will implement portions of Executive Order No. 12735, issued by President Bush on November 16, 1990, to combat the spread of chemical and biological weapons. Close consultations with members of Congress and American industry will now be required to ensure the effective implementation of these measures by February 16.

The United States will seek the widest and earliest multilateral concurrence in these measures, recognizing that the support of other supplier nations is essential to effective export controls.

# # #

THE WHITE HOUSE

Office of the Press Secretary

March 7, 1991

The United States has taken a major step in its continuing efforts to halt the spread of weapons of mass destruction, with the issuance of regulations extending export controls over chemicals, equipment, and other assistance that can contribute to the spread of missiles and chemical and biological weapons.

Saddam Hussein's use of chemical weapons against his own citizens, his use of SCUD missiles to terrorize civilian populations, and the chilling specter of germ warfare and nuclear weapons have brought home the dangers proliferation poses to American interests and global peace and stability.

Our continuing efforts to stem the spread of weapons of mass destruction will contribute to the construction of a New World Order. The new regulations will enhance our ability to head off these dangers so that, in the future, we will not be forced to confront them militarily as we have in Iraq. At the same time, the new regulations are sensitive to the importance of U.S. exports to our economic vitality, and will not unfairly restrict legitimate commerce.

The expanded U.S. export controls apply to equipment, chemicals, and whole plants that can be used to manufacture chemical or biological weapons, as well as to activities of U.S. exporters or citizens when they know or are informed that their efforts will assist in a foreign missile or chemical or biological weapon program.

But the United States cannot do the job alone. Our experience in the Gulf has reinforced the lesson that the most effective export controls are those imposed multilaterally. The Administration has therefore initiated vigorous efforts to obtain allied support for chemical and biological weapon export controls in the Australia Group, missile export controls in the Missile Technology Control Regime, and nuclear export controls through consultations with all major nuclear suppliers. These efforts will take advantage of the growing international consensus to redouble our efforts to stem the spread of weapons of mass destruction.

The proliferation of weapons of mass destruction may profoundly challenge our national security in the 1990s. The new regulations issued today and our multilateral initiatives will enhance our ability to meet that challenge squarely.

# # #

FACT SHEET ON NEW NONPROLIFERATION REGULATIONS

Three regulations are being published in the Federal Register. These regulations will contribute to our nonproliferation efforts by implementing parts of the Executive Order on chemical and biological weapons (CBW) issued by the President last November and the Enhanced Proliferation Controls Initiative launched last December. At the same time, the regulations have been designed to minimize interference with legitimate international trade.

The first regulation establishes a list of dual-use equipment with legitimate commercial uses, but also potential applications to chemical and biological weapons production. Licenses will now be required before exporting any such dual-use equipment to particularly sensitive regions, such as the Middle East and Southwest Asia, as well as to countries elsewhere whose activities may have CBW-related implications. The equipment list, which reflects a three-month effort involving extensive consultations with industry, is unprecedented: Never before have U.S. export licenses been required for dual-use, CBW-related equipment.

The second regulation expands from eleven to fifty the list of "precursor chemicals" that require an export license. Like dual-use equipment, these chemicals are commonly used in commercial products. But they have also been identified by the Australia Group as key ingredients in the manufacture of chemical weapons. The Australia Group is a multilateral forum of twenty supplier nations (including the United States) committed to restricting the spread of chemical weapons. The United States will now join the growing number of Australia Group members that require a license to export any of the fifty precursor chemicals to any country outside the Group.

The third regulation provides additional controls, focused on knowing exports or other support by U.S. firms or individuals for CBW or missile programs abroad. Under its terms, if the U.S. government learns of possible American assistance to such programs, it will be able to intervene to prevent it. This regulation will impose new licensing requirements in the following instances:

(1) A U.S. person knows that a proposed export or other assistance is destined for CBW or missile activities in listed regions, countries, or projects;

(2) A U.S. person is informed by the U.S. Government that a proposed export or other assistance is destined for CBW or missile activities anywhere in the world; or

(3) An export of a whole chemical plant that manufactures any of the 50 chemical precursors, or assistance in designing such a plant, is destined to any country outside the Australia Group.

The new restriction on participation by U.S. persons in CW or missile-related projects is similar to export restrictions that already apply to BW- and nuclear-related exports. Civil and criminal penalties may be imposed upon those who breach these controls.

The regulations providing controls on dual-use equipment and precursor chemicals already have been the subject of extensive consultations with industry, and will be issued as interim rules. In this form, the regulations will be effective on the date of publication, although they may be modified following the thirty-day public comment period. The third regulation imposing additional controls is being issued as a proposed rule. This regulation will become effective when a final rule is issued, after the close of the thirty-day public comment period.

To be truly effective, comparable controls must be applied by all major suppliers. To that end, the Administration is vigorously pursuing multilateral adoption of these new export controls in the Australia Group, the Missile Technology Control Regime, and various international nuclear fora.

federal register

Wednesday
March 13, 1991

Part VI

Department of Commerce

Bureau of Export Administration

15 CFR Parts 770, 776, 778, and 799
Expansion of Foreign Policy Controls on Chemical Weapon Precursors; Imposition of Foreign Policy Controls on Equipment and Technical Data Related to the Production of Chemical and Biological Weapons; Interim Rules

15 CFR Parts 771, 776, and 778
Imposition and Expansion of Foreign Policy Controls; Proposed Rule

DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Parts 776 and 799

[Docket No. 910237-1037]

Expansion of Foreign Policy Controls on Chemical Weapon Precursors

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Interim rule with request for comments.

SUMMARY: In support of U.S. policies opposing the proliferation and use of chemical weapons, the Department of Commerce is expanding the foreign policy controls on exports of certain chemical weapon precursors (i.e., chemicals that can be used in the manufacture of chemical weapons).

This interim rule amends the Commodity Control List (CCL), Supplement No. 1 to § 799.1 of the Export Administration Regulations (EAR), by expanding the number of countries for which a validated license is required for thirty-nine precursor chemicals. Under this rule, the thirty-nine chemicals will require a validated license for export to all destinations except NATO member countries, Australia, Austria, Ireland, Japan, New Zealand, and Switzerland. Previously, these chemicals required a validated license only for export to Country Groups S and Z, Iran, Iraq, Syria, and military and police entities in the Republic of South Africa.

DATES: This rule is effective March 13, 1991. Comments must be received by April 12, 1991.

ADDRESSES: Written comments (six copies) should be sent to Willard Fisher, Office of Technology and Policy Analysis, Bureau of Export Administration, Department of Commerce, P.O. Box 273, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: For questions on foreign policy controls, call Toni Jackson, Office of Technology and Policy Analysis, Bureau of Export Administration, Telephone: (202) 377-4531.

For questions of a technical nature on chemical weapon precursors, call James Seevaratnam, Office of Technology and Policy Analysis, Bureau of Export Administration, Telephone: (202) 377-5695.

SUPPLEMENTARY INFORMATION:

Background

This interim rule expands the number of countries for which a validated license is required to export thirty-nine precursor chemicals. Under this rule, a validated license is now required to export these chemicals to all destinations except NATO member countries, Australia, Austria, Ireland, Japan, New Zealand, and Switzerland. This rule amends the CCL by adding to ECCN 4798B the thirty-nine chemicals formerly controlled under ECCN 5798F and removing ECCN 5798F from the CCL.

The changes made by this rule address one of the measures called for in President Bush's December 13, 1990, decision on the Enhanced Proliferation Control Initiative (EPCI) and included in Executive Order 12735 of November 16, 1990, on chemical and biological weapons proliferation. Executive Order 12735 of November 16, 1990, directs the Secretary of Commerce to exercise his authority under Executive Order 12730 to control exports that the Secretary determines would assist a country in acquiring the capability to develop, produce, stockpile, deliver, or use chemical or biological weapons. The EPCI directs the Commerce Department to adopt worldwide export controls on fifty chemical weapons precursors. Worldwide controls were already in place for eleven of these fifty chemicals under ECCN 4798B. The revision to ECCN 4798B, which adds the thirty-nine chemicals formerly controlled under ECCN 5798F, provides worldwide export controls on all fifty chemicals consistent with the President's directive. These fifty chemicals have been identified as precursors by the twenty-nation Australia Group, which seeks to control the proliferation of chemical weapons. The United States will seek the agreement of all Australia Group governments to adopt equivalent controls.

Consistent with the expansion of foreign policy controls on exports of chemical precursors, this rule also amends § 776.19 to apply the reexport provisions of part 774 to reexports of chemical precursors controlled under ECCN 4798B and to apply the parts and components provisions of § 776.12 to all items controlled under ECCNs 4798B, 4997B, and 4998B.

This rule also amends Supplement No. 1 to § 799.2 (Commodity Interpretations) by revising "Interpretation 23: Precursor Chemicals" to reflect the changes in the list of chemicals controlled by ECCN 4798B and the removal of ECCN 5798F.

The general policy of denying applications to export or reexport chemicals controlled under ECCN 4798B to Iran, Iraq, Libya and Syria remains in effect. Exports and reexports to other destinations will generally be approved unless there is reason to believe the chemicals will be used in producing chemical weapons or otherwise devoted to chemical warfare purposes.

The contract sanctity provisions contained in this rule are consistent with the requirements of the Export Administration Act of 1979, as amended (EAA). However, serious consideration is being given to eliminating these contract sanctity provisions when the final rule is published, in light of the serious concerns raised by chemical and biological weapons. The Department invites public comments on this issue, as well as all other aspects of the regulation.

The Department of Commerce has submitted a report to the Congress to support this expansion in U.S. foreign policy controls.

Saving Clause

Shipments of items removed from general license authorization as a result of this regulatory action that were on dock for loading, on lighter, laden aboard an exporting carrier, or en route aboard a carrier to a port of export pursuant to actual orders for export before March 27, 1991, may be exported under the previous general license provisions up to and including April 10, 1991. Any such items not actually exported before midnight April 10, 1991, require a validated export license in accordance with this regulation.

Rulemaking Requirements

1. This rule is consistent with Executive Orders 12291 and 12661.

2. This rule involves collections of information subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). These collections have been approved by the Office of Management and Budget under control numbers 0694-0005 and 0694-0010.

3. This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612.

4. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by section 553 of the Administrative Procedure Act (5 U.S.C. 553) or by any other law, under sections 603(a) and 604(a) of the Regulatory Flexibility Act (5 U.S.C. 603(a) and 604(a)) no initial or final Regulatory Flexibility Analysis has to be or will be prepared.

5. The provisions of the Administrative Procedure Act, 5 U.S.C. 553, requiring notice of proposed rulemaking, the opportunity for public

participation, and a delay in effective date, are inapplicable because this regulation involves a foreign and military affairs function of the United States. No other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule.

However, because of the importance of the issues raised by these regulations, this rule is issued in interim form and comments will be considered in the development of final regulations. Accordingly, the Department encourages interested persons who wish to comment to do so at the earliest possible time to permit the fullest consideration of their views. Comments on the contract sanctity provisions contained in this rule are especially encouraged.

The period for submission of comments will close April 12, 1991. The Department will consider all comments received before the close of the comment period in developing final regulations. Comments received after the end of the comment period will be considered if possible, but their consideration cannot be assured. The Department will not accept public comments accompanied by a request that a part or all of the material be treated confidentially because of its business proprietary nature or for any other reason. The Department will return such comments and materials to the person submitting the comments and will not consider them in the development of final regulations. All public comments on these regulations will be a matter of public record and will be available for public inspection and copying. In the interest of accuracy and completeness, the Department requires comments in written form. Oral comments must be followed by written memoranda, which will also be a matter of public record and will be available for public review and copying. Communications from agencies of the United States Government or foreign governments will not be made available for public inspection.

The public record concerning these regulations will be maintained in the Bureau of Export Administration Freedom of Information Records Inspection Facility, room 4525, Department of Commerce, 14th Street and Pennsylvania Avenue, NW., Washington, DC 20230. Records in this facility, including written public comments and memoranda summarizing the substance of oral communications, may be inspected and copied in accordance with regulations published in part 4 of title 15 of the Code of Federal Regulations. Information about the inspection and copying of records at the facility may be obtained from Margaret Cornejo, Bureau of Export Administration Freedom of Information Officer, at the above address or by calling (202) 377-5653.

List of Subjects in 15 CFR Parts 776 and 799

Exports, Reporting and recordkeeping requirements.

Accordingly, parts 776 and 799 of the Export Administration Regulations (15 CFR parts 730-799) are amended as follows:

1. The authority citation for 15 CFR parts 776 and 799 continues to read as follows:

Authority: Pub. L. 96-72, 93 Stat. 503 (50 U.S.C. app. 2401 *et seq.*), as amended Pub. L. 95-223 of December 28, 1977 (50 U.S.C. 1701 *et seq.*); E.O. 12730 of September 30, 1990 (55 FR 40373, October 2, 1990); E.O. 12735 of November 16, 1990 (55 FR 48587, November 20, 1990).

PART 776—[AMENDED]

§ 776.19 [Amended]

2. Section 776.19 is amended:

a. By removing paragraph (a)(ii) and redesignating paragraphs (a)(i) and (a)(iii) as new paragraphs (a)(1) and (a)(2), respectively;

b. By revising paragraphs (b) and (e);

c. By removing paragraph (i);

d. By redesignating paragraphs (f), (g), and (h) as new paragraphs (g), (h), and (i), respectively;

e. By adding a new paragraph (f);

f. By removing paragraph (l) and redesignating paragraph (m) as new paragraph (n);

g. By redesignating paragraphs (j) and (k) as new paragraphs (l) and (m), respectively; and

h. By adding new pargraphs (j) and (k), as follows:

§ 776.19 Chemical and biological agents.

* * * * *

(b) Unless one or more of the criteria stated in paragraphs (c) through (k) of this section are met, applications to export the goods in ECCNs 4798B, 4997B, and 4998B will generally be denied to Libya, Iran, Iraq, and Syria. Applications will generally be approved to other destinations, except where there is reason to believe that those goods will be used in producing chemical or biological weapons or will otherwise be devoted to chemical or biological warfare purposes.

* * * * *

(e) The contract sanctity date for exports of items in ECCNs 4997B and 4998B from the United States to Iran, Iraq, or Syria is February 22, 1989.

(f) The contract sanctity date for exports of the following chemicals from the United States to Iran or Iraq is February 22, 1989: Dimethyl methylphosphonate, methylphosphonyl dichloride, methylphosphonyl difluoride, phosphorus oxychloride, and thiodiglycol. The contract sanctity date for exports of the following chemicals from the United States to Syria is February 22, 1989: Dimethyl methylphosphonate, methylphosphonyl dichloride, and methylphosphonyl difluoride.

* * * * *

(j) The contract sanctity date for exports of chemicals controlled by ECCN 4798B from the United States to all destinations (except Iran, Iraq, Libya, or Syria) is March 7, 1991, except for applications to export the following chemicals: 2-chloroethanol, dimethyl methylphosphonate, dimethyl phosphite (dimethyl hydrogen phosphite), methylphosphonyl dichloride, methylphosphonyl difluoride, phosphorus oxychloride, phosphorous trichloride, thiodiglycol, thionyl chloride, triethanolamine, and trimethyl phosphite. (See also paragraphs (h) and (i) of this section.) This provision does not apply to exports to Country group Z or to military or police entities in the Republic of South Africa. For exports to Iran, Iraq, Libya, Syria, see paragraphs (c) through (g) of this section.

(k) The contract sanctity date for reexports of chemicals controlled under ECCN 4798B to any destination (except Iran, Iraq, Libya, or Syria) is March 7, 1991. The contract sanctity date for reexports of these chemicals to Iran, Iraq, Libya, or Syria is December 12, 1989. This provision does not apply to exports to Country Group Z or to military or police entities in the Republic of South Africa.

* * * * *

PART 799—[AMENDED]

Supplement No. 1 to § 799.1 [Amended]

3. In Supplement No. 1 to Section 799.1 (the Commodity Control List), Commodity Group 7 (Chemicals, Metalloids, Petroleum Products, and Related Materials), ECCN 4798B is amended by revising the List of Chemicals Controlled, as follows:

4798B Precursor and intermediate chemicals used in the production of chemical warfare agents.

* * * * *

List of Chemicals Controlled by ECCN 1798B

(See Supplement No. 1 to 799.2, Interpretation 23: Precursor Chemicals, for synonyms for the following chemicals.)

(1) (C.A.S. #1341-49-7) Ammonium hydrogen fluoride;

(2) (C.A.S. #7784-34-1) Arsenic trichloride;

(3) (C.A.S. #76-93-7) Benzilic acid;

(4) (C.A.S. #107-07-3) 2-Chloroethanol;

(5) (C.A.S. #78-38-6) Diethyl ethylphosphonate;

(6) (C.A.S. #15715-41-0) Diethyl methylphosphonite;

(7) (C.A.S. #2404-03-7) Diethyl-N,N-dimethylphosphoramidate;

(8) (C.A.S. #762-04-9) Diethyl phosphite;

(9) (C.A.S. #100-37-8) N,N-Diethylethanolamine;

(10) (C.A.S. #5842-07-9) N,N-Diisopropyl-.beta.-aminoethane thiol;

(11) (C.A.S. #96-80-0) N,N-Diisopropyl-.beta.-aminoethanol;

(12) (C.A.S. #96-79-7) N,N-Diisopropyl-.beta.-aminoethyl chloride;

(13) (C.A.S. #108-18-9) Diisopropylamine;

(14) (C.A.S. #6163-75-3) Dimethyl ethylphosphonate;

(15) (C.A.S. #756-79-6) Dimethyl methylphosphonate;

(16) (C.A.S. #868-85-9) Dimethyl phosphite [dimethyl hydrogen phosphite];

(17) (C.A.S. #124-40-3) Dimethylamine;

(18) (C.A.S. #506-59-2) Dimethylamine hydrochloride;

(19) (C.A.S. #57856-11-8) O-Ethyl-2-diisopropylaminoethyl methylphosphonite (QL);

(20) (C.A.S. #1498-40-4) Ethylphosphonous dichloride [Ethylphosphinyl dichloride]; [1]

(21) (C.A.S. #430-78-4) Ethylphosphonus difluoride [Ethylphosphinyl difluoride]; [2]

(22) (C.A.S. #1066-50-8) Ethylphosphonyl dichloride;

(23) (C.A.S. #753-98-0) Ethylphosphonyl difluoride;

(24) (C.A.S. #7664-39-3) Hydrogen fluoride;

(25) (C.A.S. #3554-74-3) 3-Hydroxyl-l-methylpiperidine;

(26) (C.A.S. #76-89-1] Methyl Benzilate;

(27) (C.A.S. #676-83-5) Methylphosphonous dichloride [Methylphosphinyl dicloride]; [3]

(28) (C.A.S. #753-59-3) Methylphosphonous difluoride [Methylphosphinyl difluoride]; [4]

(29) (C.A.S. #676-97-1) Methylphosphonyl dichloride;

(30) (C.A.S. #676-99-3) Methylphosphonyl difluoride;

(31) (C.A.S. #10025-87-3) Phosphorus Oxychloride;

(32) (C.A.S. #10026-13-8) Phosphorus pentachloride;

(33) (C.A.S. #1314-80-3) Phosphorus pentasulfide;

(34) (C.A.S. #7719-12-2) Phosphorus trichloride;

(35) (C.A.S. #75-97-8) Pinacolone;

(36) (C.A.S. #464-07-3) Pinacolyl alcohol;

(37) (C.A.S. #151-50-8) Potassium cyanide;

(38) (C.A.S. #7789-23-3) Potassium fluoride;

(39) (C.A.S. #7789-23-9) Potassium hydrogen fluoride;

(40) (C.A.S. #1619-34-7) 3-Quinuclidinol;

(41) (C.A.S. #3731-38-2) 3-Quinuclidinone;

(42) (C.A.S. #1333-83-1) Sodium bifluoride;

(43) (C.A.S. #143-33-9) Sodium cyanide;

(44) (C.A.S. #7681-49-4) Sodium fluoride;

(45) (C.A.S. #1313-82-2) Sodium sulfide;

(46) (C.A.S. #111-48-8) Thiodiglycol;

(47) (C.A.S. #7719-09-7) Thionyl chloride;

(48) (C.A.S. #102-71-6) Triethanolamine;

(49) (C.A.S. #122-52-1) Triethyl phosphite; and

(50) (C.A.S. #121-45-9) Trimethyl phosphite.

4. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 7 (Chemicals, Metalloids, Petroleum Products and Related Materials), ECCN 5798F is removed.

Supplement No. 1 to § 799.2 [Amended]

5. In Supplement No. 1 to § 799.2 (Interpretations), Interpretation 23 (Precursor Chemicals) is revised to read as follows:

Interpretation 23: Precursor Chemicals

Following is a listing of chemicals controlled by ECCN 1798B that includes their Chemical Abstract Service Registry (C.A.S.) number and synonyms (i.e., alternative names). These chemicals require a validated license to all countries except Australia, Austria, Belgium, Canada, Denmark, the Federal Republic of Germany, France, Greece, Iceland, Ireland, Italy, Japan, Luxembourg, the Netherlands, New Zealand, Norway, Portugal, Spain, Switzerland, Turkey, and the United Kingdom.

(1) (C.A.S. #1341-49-7) Ammonium hydrogen fluoride
- Acid ammonium fluoride
- Ammonium bifluoride
- Ammonium difluoride
- Ammonium hydrofluoride
- Ammonium hydrogen bifluoride
- Ammonium hydrogen difluoride
- Ammonium monohydrogen difluoride

(2) (C.A.S. #7784-34-1) Arsenic trichloride
- Arsenic (III) chloride
- Arsenous chloride
- Fuming liquid arsenic
- Trichloroarsine

(3) (C.A.S. #76-93-7) Benzilic acid
- .alpha.,.alpha.-Diphenyl-.alpha.-hydroxyacetic acid
- Diphenylglycolic acid
- .alpha.,.alpha.-Diphenylglycolic acid
- Diphenylhydroxyacetic acid
- .alpha.-Hydroxy-2,2-diphenylacetic acid
- 2-Hydroxy-2,2-diphenylacetic acid
- .alpha.-Hydroxy-.alpha.-phenylbenzeneacetic acid
- Hydroxydiphenylacetic acid

(4) (C.A.S. #107-07-3) 2-Chloroethanol
- 2-Chloro-1-ethanol
- Chloroethanol
- 2-Chloroethyl alcohol
- Ethene chlorohydrin
- Ethylchlorohydrin
- Ethylene chlorhydrin
- Ethylene chlorohydrin
- Glycol chlorohydrin
- Glycol monochlorohydrin
- 2-Hydroxyethyl chloride

(5) (C.A.S. #78-38-6) Diethyl ethylphosphonate
- Ethylphosphonic acid diethyl ester

(6) (C.A.S. #15715-41-0) Diethyl methylphosphonite
- Diethoxymethylphosphine
- Diethyl methanephosphonite
- O,O-Diethyl methylphosphonite
- Methyldiethoxyphosphine
- Methylphosphonous acid diethyl ester

(7) (C.A.S. #2404-03-7) Diethyl-N,N-dimethylphosphoramidate
- N,N-Dimethyl-O,O'-diethyl phosphoramidate
- Diethyl dimethylphosphoramidate
- Dimethylphosphoramidic acid diethyl ester

(8) (C.A.S. #762-04-9) Diethyl phosphite
- Diethoxyphosphine oxide
- Diethyl acid phosphite
- Diethyl hydrogen phosphite
- Diethyo phosphonate
- Hydrogen diethyl phosphite

(9) (C.A.S. #100-37-8) N,N-Diethylethanolamine
- N,N-Diethyl-2-aminoethanol
- Diethyl (2-hydroxyethyl)amine
- N,N-Diethyl-N-(.beta.-hydroxyethyl)amine
- N,N-Diethyl-2-hydroxyethylamine
- Diethylaminoethanol
- 2-(Diethylamino)ethanol
- Diethylaminoethyl alcohol
- N,N-Diethylmonoethanolamine
- (2-Hydroxyethyl)diethylamine
- 2-Hydroxytriethylamine

(10) (C.A.S. #5842-07-9) N,N-Diisopropyl-.beta.-aminoethane thiol
- 2-(Diisopropylamino) ethanethiol

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[1] Chemical name and alternatives in the List of Chemicals for this ECCN 1798B.

[2] See footnote 1 to this ECCN 1798B.

[3] See footnote 1 to this ECCN 1798B.

[4] See footnote 1 to this ECCN 1798B.

Diisopropylaminoethanethiol
beta.-Diisopropylaminoethanethiol
2-(bis(1-Methylethyl)amino) ethanethiol
(11) (C.A.S. #96-80-0) N,N-Diisopropyl-.beta.-aminoethanol
N,N-Diisopropyl-2-aminoethanol
2-(Diisopropylamino) ethanol
(N,N-Diisopropylamino) ethanol
2-(Diisopropylamino) ethyl alcohol
N,N-Diisopropylethanolamine
(12) (C.A.S. #96-79-7) N,N-Diisopropyl-.beta.-aminoethyl chloride
2-Chloro-N,N-diisoproplethanamine
1-Chloro-N,N-diisopropylaminoethane
2-Chloro-N,N-diisopropylethylamine
N-(2-chlorethyl)-N-(1-methylethyl)-2-propanamine
N-(2-Chloroethyl) diisopropylamine
N,N-Diisopropyl-2-chloroethylamine
1-(Diisopropylamino)-2-cholorethane
2-(Diisopropylamino) ethyl chloride
Diisopropylaminoethyl chloride
beta.-Diisopropylaminoethyl chloride
(13) (C.A.S. #108-18-9) Diisopropylamine
N,N Diisopropylamine
N-(1-Methylethyl)-2-propanamine
(14) (C.A.S. #6163-75-3) Dimethyl ethylphosphonate
Dimethyl ethanephosphonate
Ethylphosphonic acid dimethyl ester
(15) C.A.S. #756-79-6) Dimethyl methylphosphonate
Dimethoxymethyl phosphine oxide
Dimethyl methanephosphonate
Methanephosphonic acid dimethyl ester
Methylphosphonic acid dimethyl ester
(16) (C.A.S. #868-85-9) Dimethyl phosphite
Dimethoxphosphine oxide
Dimethyl acid phosphite
Dimethyl hydrogen phosphite
Dimethyl phosphonate
Hydrogen dimethyl phosphite
Methyl phosphonate
(17) (C.A.S. #124-40-3) Dimethylamine
N-Methyl methanamine
(18) (C.A.S. #506-59-2) Dimethylamine hydrochloride
Dimethylammonium chloride
N-Methyl methanamine hydrochloride
(19) (C.A.S. #57856-11-8) O-Ethyl-2-diisopropylaminoethyl methylphosphonite (QL)
Methylphosphonous acid 2-(bis(1-methylethyl)amino)ethyl ethyl ester
(20) (C.A.S. #1498-40-4) Ethylphosphonous dichloride
Dichloroethylphosphine
Ethyl phosphonous dichloride
Ethyldichlorophosphine
(21) (C.A.S. #430-78-4) Ethylphosphonus difluoride
Ethyldifluorophosphine
(22) (C.A.S. #1066-50-8) Ethylphosphonyl dichloride
Dichloroethylphosphine oxide
Ethanephosphonyl chloride
Ethylphosphinic dichloride
Ethylphosphonic acid dichloride
Ethylphosphonic dichloride
(23) (C.A.S. #753-98-0) Ethylphosphonyl difluoride
Ethyl difluorophosphite
Ethyldifluorophosphine oxide
Ethylphosphonic difluoride
(24) (C.A.S. #7664-39-3) Hydrogen fluoride
Anhydrous hydrofluoric acid
Fluorhydric acid
Fluorine monohydride
Hydrofluoric acid gas
(25) (C.A.S. #3554-74-3) 3-Hydroxyl-1-methylpiperidine
3-Hydroxy-N-methylpiperidine
1-Methyl-3-hdroxypiperidine
N-Methyl-3-hydroxypiperidine
1-Methyl-3-piperidinol
N-Methyl-3-piperidonol
(26) (C.A.S. #76-89-1) Methyl benzilate
Benzilic acid methyl ester
.alpha.-Hydroxy-.alpha.-phenylbenzeneacetic acid methyl ester
Methyl .alpha.-phenylmandelate
Methyl diphenylglycolate
(27) (C.A.S. #676-83-5) Methylphosphonous dichloride
Dichloromethylphosphine
Methyldichlorophosphine
Methylphosphorus dichloride
(28) (C.A.S. #753-59-3) Methylphosphonous difluoride
Difluoromethylphosphine
Methyldifluorophosphine
(29) (C.A.S. #676-97-1) Methylphosphonyl dichloride
Dichloromethylphosphine oxide
Methanephosphonodichloridic acid
Methanephosphonyl chloride
Methylphosphonic acid dichloride
Methylphosphonic dichloride
Methylphosphonodichloridic acid
Methylphosphonyl chloride
(30) (C.A.S. #676-99-3) Methylphosphonyl difluoride
Difluoromethylphosphine oxide
Methyl difluorophosphite
Methylphosphonic difluoride
(31) (C.A.S. #10025-87-3) Phosphorus oxychloride
Phosphonyl trichloride
Phosphoric chloride
Phosphoric trichloride
Phosphoroxychloride
Phosphoroxytrichloride
Phosphorus chloride oxide
Phosphorus monoxide trichloride
Phosphorus oxide trichloride
Phosphorus oxytrichloride
Phosphorus trichloride oxide
Phosphoryl trichloride
Trichlorophosphine oxide
Trichlorophosphorus oxide
(32) (C.A.S. #10026-13-8) Phosphorus pentachloride
Pentachlorophosphorane
Pentachlorophosphorus
Phosphoric chloride
Phosphorus(V) chloride
Phosphorus perchloride
(33) (C.A.S. #1314-80-3) Phosphorus pentasulfide
Diphosphorus pentasulfide
Phosphoric sulfide
Phosphorus persulfide
Phosphorus sulfide
(34) (C.A.S. #7719-12-2) Phosphorus trichloride
Phosphorus chloride
Trichlorophosphine
(35) (C.A.S. #75-97-8) Pinacolone
tert-Butyl methly ketone
2,2-Dimethyl-3-butanone
3,3-Dimethyl-2-butanone
2,2-Dimethylbutanone
3,3-Dimethylbutanone
1,1-Dimethylethyl methyl kentone
Methyl tert-butyl ketone
Pinacolin
Pinacoline
1,1,1-Trimethylacetone
(36) (C.A.S. #464-07-3) Pinacolyl alcohol
tert-Butyl methyl carbinol
2,2-Dimethyl-3-butanol
3,3-Dimethyl-2-butanol
1-Methyl-2,2-dimethylpropanol
(37) (C.A.S. #151-50-8) Potassium cyanide
(38) (C.A.S. #7789-23-3) Potassium fluoride
Potassium monofluoride
(39) (C.A.S. #7789-29-9) Potassium hydrogen fluoride
Hydrogen potessium difluoride
Hydrogen potassium fluoride
Potassium acid fluoride
Potassium bifluoride
Potassium hydrogen difluoride
Potassium monohydrogen difluoride
(40) (C.A.S. #1619-34-7) 3-Quinuclidinol
1-Azabicyclo(2.2.2)octan-3-ol
3-Hydroxyquinuclidine
(41) (C.A.S. #3731-38-2) 3-Quinuclidinone
1-Azabicyclo(2.2.2)octan-3-one
3-Oxyquinuclidine
Quinuclidone
(42) (C.A.S. #1333-83-1) Sodium bifluoride
Sodium hydrogen difluoride
Sodium hydrogen fluoride
Thiophosphoric anhydride
(43) (C.A.S. #143-33-9) Sodium cyanide
(44) (C.A.S. #7681-49-4) Sodium fluoride
Sodium monofluoride
(45) (C.A.S. #1313-82-2) Sodium sulfide
Disodium monosulfide
Disodium sulfide
Sodium monosulfide
Sodium sulphide
(46) (C.A.S. #111-48-8) Thiodiglycol
Bis(2-hydroxyethyl) sulfide
Bis(2-hydroxyethyl) thioether
Di(2-hydroxyethyl) sulfide
Diethanol sulfide
2,2'-Dithiobis-(ethanol)
3-Thiapentane-1,5-diol
2,2'-Thiobisethanol
2,2'-Thiodiethanol
Thiodiethylene glycol
2,2'-Thiodiglycol
(47) (C.A.S. #7719-09-7) Thionyl chloride
Sulfinyl chloride
Sulfinyl dichoioride
Sulfur chloride oxide
Sulfur oxychloride
Sulfurous dichloride
Sulfurous oxychloride
Thionyl dichloride
(48) (C.A.S. #102-71-6) Triethanolamine
Alkanolamine 244
Nitrilotriethanol
2,2',2''-Nitrilotriethanol
2,2',2''-Nitrilotris(ethanol)
TEA
TEA(amino alcohol)
Tri(2-hydroxyethyl)amine
Triethanolamen
Tris (.beta.-hydroxyethyl)amine
Tris(2-hydroxyethyl)amine
Trolamine
(49) (C.A.S. #122-52-1) Triethyl phosphite
Phosphorous acid triethyl ester
Triethoxyphosphine

Tris(ethoxy) phosphine
(50) (C.A.S. #121-45-9) Trimethyl phosphite
Phosphorus acid trimethyl ester
Trimethoxyphosphine

Dated: March 7, 1991.

James M. LeMunyon,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 91-5859 Filed 3-8-91; 4:25 pm]

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15 CFR Parts 770, 776, 778, and 799

[Docket No. 910241-1041]

Imposition of Foreign Policy Controls on Equipment and Technical Data Related to the Production of Chemical and Biological Weapons

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Interim rule with request for comments.

SUMMARY: In support of U.S. policies opposing the proliferation and prohibited use of chemical and biological weapons, the Department of Commerce is imposing foreign policy controls on exports of certain dual-use equipment that can be used to produce:

(1) Chemicals or biological agents controlled by ECCNs 4798B, 4997B, or 4998B on the Commodity Control List (CCL), Supplement No. 1 to § 799.1 of the Export Administration Regulations (EAR);

(2) Chemicals or biological warfare agents controlled under the International Traffic in Arms Regulations (ITAR) (22 CFR parts 120-130).

The Department is also imposing foreign policy controls on technical data for the production of such equipment.

Specifically, this interim rule amends the Export Administration Regulations (EAR) to impose validated licensing requirements on exports of this equipment and technical data to Country Groups S and Z and countries listed in a new Supplement No. 5 to part 778 of the EAR.

DATES: This rule is effective March 13, 1991. Comments must be received by April 12, 1991.

ADDRESSES: Written comments (six copies) should be sent to Willard Fisher, Office of Technology and Policy Analysis, Bureau of Export Administration, Department of Commerce, P.O. Box 273, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: For questions on foreign policy controls, call Toni Jackson, Office of Technology and Policy Analysis, Bureau of Export Administration, Telephone: (202) 377-4531.

For questions of a technical nature on chemical weapon precursors, biological agents, and equipment that can be used to produce chemical and biological agents, call James Seevaratnam, Office of Technology and Policy Analysis, Bureau of Export Administration, Telephone: (202) 377-5695.

SUPPLEMENTARY INFORMATION:

Background

This interim rule amends the Export Administration Regulations (EAR) to impose a validated licensing requirement on exports of certain equipment that can be used to produce the following:

(1) Chemicals or biological agents controlled under ECCNs 4798B, 4997B, or 4998B on the Commodity Control List (CCL);

(2) Chemicals and biological warfare agents controlled under the International Traffic in Arms Regulations (ITAR) (22 CFR parts 120-130), administered by the U.S. Department of State.

This rule also creates a new § 776.20, which imposes a validated licensing requirement on exports of technical data for the production of such equipment. The equipment and technical data subject to this validated licensing requirement have diverse civil applications and, this, are not uniquely related to chemical and biological weapons production.

The validated licensing requirement for this equipment and technical data applies only to exports and reexports to Country Groups S and Z and the regions and countries listed in new Supplement No. 5 to part 778 of the EAR. Supplement No. 5 includes the Middle Eastern and Southwest Asian regions and certain other countries.

Section 776.20 establishes the licensing policy for reviewing applications to export or reexport equipment and the technical data related to chemical and biological weapons production. Exports and reexports of such items will be denied if they would make a material contribution to the design, development, production, stockpiling, or use of chemical or biological weapons.

This rule implements part of Executive Order 12735 of November 16, 1990, on Chemical and Biological Weapons Proliferation, as well as the Enhanced Proliferation Control Initiative (EPCI) announced on December 13, 1990. Excutive Order 12735 of November 16, 1990, directs the Secretary of Commerce to control exports that the Secretary of Commerce and the Secretary of State determine would assist a country in acquiring chemical and biological weapons capability. The EPCI directs Commerce to control dual-use equipment and technical data related to chemical and biological weapons. This rule creates new Export Control Commodity Numbers (ECCNs) in the CCL to control this equipment to Country Groups S and Z and the regions and countries listed in new Supplement 5 to part 778.

The following ECCNs are added to the CCL:

5129F: Chemical processing equipment linked with nickel or constructed of Hastelloy, Monel, or another alloy with nickel content.

5132F: Pumps or valves designed to be vapor leak proof.

5133F: Thermometers or other chemical processing sensors encased in nickel alloy.

5134F: Filling equipment enclosed in a glove box or similar environmental barrier, or incorporating a nickel-lined or Hastelloy nozzle.

5135F: Specially designed incinerators for chemical precursors listed in ECCN 4798B, chemical warfare agents, or organophosphorus compounds.

5140F: Toxic gas monitoring systems.

5141F: Monitoring systems for the detection of chemical compounds having anticholinesterase activity.

5165F: Detection or assay systems for biological agents.

5187F: Biohazard containment equipment.

5170F: Equipment for the microencapsulation of live microorganisms.

5797F: Intermediate chemicals used in the production of chemical warfare agents.

5997F: Complex media for the growth of microorganisms.

The United States will seek the agreement of all Australia Group governments to adopt equivalent controls on this equipment. The twenty-member Australia Group, in which the United States participates, seeks to prevent the proliferation of chemical and biological weapons.

The Department of Commerce has submitted a report to the Congress in accordance with section 6 of the Export Administration Act of 1979, as amended, to support this imposition of U.S. foreign policy controls.

The contract sanctity provision contained in this rule is consistent with the requirements of the Export Administration Act of 1979, as amended (EAA). However, serious consideration is being given to eliminating this contract sanctity provision when the final rule is published, in light of the serious concerns raised by chemical and biological weapons. The Department invites public comments on this issue, as

well as all other aspects of the regulation.

Consistent with the prohibitions on trade with Iraq and Kuwait contained in the Executive Orders issued on August 2 and 9, 1990, exporters should obtain guidance from the Office of Foreign Assets Control, U.S. Department of Treasury, concerning any export or reexport to Iraq or Kuwait.

Saving Clause

Shipments of items removed from general license authorizations as a result of this regulatory action that were on dock for loading, on lighter, laden aboard an exporting carrier, or en route aboard carrier to a port of export pursuant to actual orders for export before March 27, 1991, may be exported under the previous general license provisions up to and including April 10, 1991. Any such items not actually exported before midnight April 10, 1991, require a validated export license in accordance with this regulation.

Rulemaking Requirements

1. This rule is consistent with Executive Orders 12291 and 12661.

2. This rule involves collections of information subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). These collections have been approved by the Office of Management and Budget under control numbers 0694–0005 and 0694–0010.

3. This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612.

4. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by section 553 of the Administrative Procedure Act (5 U.S.C. 553) or by any other law, under sections 603(a) and 604(a) of the Regulatory Flexibility Act (5 U.S.C. 603(a) and 604(a)) no initial or final Regulatory Flexibility Analysis has to be or will be prepared.

5. The provisions of the Administrative Procedure Act, 5 U.S.C. 553, requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in effective date, are inapplicable because this regulation involves a foreign and military affairs function of the United States. No other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule.

However, because of the importance of the issues raised by these regulations, this rule is issued in interim form and comments will be considered in the development of final regulations. Accordingly, the Department encourages interested persons who wish to comment to do so at the earliest possible time to permit the fullest consideration of their views. Comments on the contract sanctity provision contained in this rule are especially encouraged.

The period for submission of comments will close April 12, 1991. The Department will consider all comments received before the close of the comment period in developing final regulations. Comments received after the end of the comment period will be considered if possible, but their consideration cannot be assured. The Department will not accept public comments accompanied by a request that a part or all of the material be treated confidentially because of its business proprietary nature or for any other reason. The Department will return such comments and materials to the person submitting the comments and will not consider them in the development of final regulations. All public comments on these regulations will be a matter of public record and will be available for public inspection and copying. In the interest of accuracy and completeness, the Department requires comments in written form. Oral comments must be followed by written memoranda, which will also be a matter of public record and will be available for public review and copying. Communications from agencies of the United States Government or foreign governments will not be made available for public inspection.

The public record concerning these regulations will be maintained in the Bureau of Export Administration Freedom of Information Records Inspection Facility, room 1525, Department of Commerce, 14th Street and Pennsylvania Avenue NW., Washington, DC 20230. Records in this facility, including written public comments and memoranda summarizing the substance of oral communications, may be inspected and copied in accordance with regulations published in part 4 of title 15 of the Code of Federal Regulations. Information about the inspection and copying of records at the facility may be obtained from Margaret Cornejo, Bureau of Export Administration Freedom of Information Officer, at the above address or by calling (202) 377–5653.

List of Subjects

15 CFR Part 770

Administrative practice and procedure, Exports.

15 CFR Parts 778 and 799

Exports, Reporting and recordkeeping requirements.

15 CFR Part 778

Exports, Nuclear energy, Reporting and recordkeeping requirements.

Accordingly, parts 770, 778, 778, and 799 of the Export Administration Regulations (15 CFR parts 730–799) are amended as follows:

1. The authority citation for 15 CFR parts 770, 778 and 778 is revised to read as follows:

Authority: Public Law 96–72, 93 Stat. 503 (50 U.S.C. app. 2401 *et seq.*), as amended; Public Law 95–223, 91 Stat. 1626 (50 U.S.C. 1701 *et seq.*); Public Law 95–242, 92 Stat. 141 (42 U.S.C. 2139(a)); E.O. 12730 of September 30, 1990 (55 FR 40373, October 2, 1990); and E.O. 12735 of November 16, 1990 (55 FR 48587, November 20, 1990).

2. The authority citation for 15 CFR part 799 is revised to read as follows:

Authority: Public Law 96–72, 93 Stat. 503 (50 U.S.C. app 2401 *et seq.*), as amended; Public Law 95–223, 91 Stat. 1626 (50 U.S.C. 1701 *et seq.*); E.O. 12730 of September 30, 1990 (55 FR 40373, October 2, 1990); and E.O. 12735 of November 16, 1990 (55 FR 48587, November 20, 1990).

PART 770—[AMENDED]

3. Section 770.2 is amended by adding alphabetically a definition for "Middle East" a definition for "Southwest Asia" to read as follows:

§ 770.2 Definitions of terms.

* * * * *

Middle East. Geographically, this region is understood to include Bahrain, Egypt, Iraq, Israel, Jordan, Kuwait, Lebanon, Libya, Oman, Qatar, Saudi Arabia, Syria, United Arab Emirates, and Yemen.

* * * * *

Southwest Asia. Geographically, this region is understood to include Afghanistan, India, Iran, and Pakistan.

* * * * *

PART 778—[AMENDED]

4. Part 778 is amended by adding a new § 778.20 to read as follows:

§ 778.20 Equipment and technical data related to the production of chemicals and biological agents.

(a) The following controls on equipment and technical data related to the production of chemicals and biological agents are maintained in support of the U.S. foreign policy of opposing the proliferation and illegal use of chemical and biological weapons:

(1) Equipment identified in ECCNs 5129F, 5132F, 5133F, 5134F, 5135F, 5140F, and 5141F in the Commodity Control List, which can be used in the production of chemical weapons precursors and chemical warfare agents, requires a validated license for export from the United States to Country Groups S and Z and countries listed in Supplement No. 5 to part 778 of this subchapter.

(2) Equipment and materials identified in ECCNs 5165F, 5167F, 5170F, 5797F, and 5997F, which can be used in the production of biological agents, require a validated license for export from the United States to Country Groups S and Z and countries listed in Supplement No. 5 to part 778 of this subchapter.

(3) Technical data for the production of commodities described in paragraphs (a)(1) and (a)(2) of this section are not eligible for General License GTDR if destined for a country listed in Supplement No. 5 to part 778 of this subchapter.

(b) *Licensing policy.* (1) Unless the criteria stated in paragraph (b)(3) of this section are met, applications to export the commodities and technical data described in paragraph (a) of this section will be considered on a case-by-case basis to determine whether the export would make a material contribution to the design, development, production, stockpiling, or use of chemical or biological weapons. When an export is deemed to make such a contribution, the license will be denied.

(2) The following factors are among those that will be considered to determine what action should be taken on individual applications:

(i) The specific nature of the end-use;

(ii) The significance of the export in terms of its contribution to the design, development, production, stockpiling, or use of chemical or biological weapons;

(iii) The non-proliferation credentials of the importing country; and

(iv) The types of assurances or guarantees against the design, development, production, stockpiling, or use of chemical or biological weapons that are given in a particular case.

(3) The contract sanctity date for the commodities and technical data described in paragraph (a) of this section is March 7, 1991.

PART 778—[AMENDED]

5. Part 778 is amended by adding a new Supplement No. 5 to read as follows:

Supplement No. 5—Dual-use Chemical and Biological Equipment: Regions, Countries, and Other Destinations

Bulgaria
China (People's Republic of)
Cuba
Middle East [1]
Myanmar (Burma)
North Korea
Romania
South Africa
Southwest Asia [2]
Soviet Union
Taiwan
Vietnam

PART 799—[AMENDED]

Supplement No. 1 to § 799.1 [Amended]

6. In Supplement No. 1 to Section 799.1 (the Commodity Control List), Commodity Group 1 (Chemical and Petroleum Equipment), a new ECCN 5129F is added immediately following ECCN 4128B, as follows:

5129F Chemical processing equipment lined with nickel or constructed of Hastelloy, Monel, or another alloy with nickel content.

Controls for ECCN 5129F

Unit: Report in "number".

Validated License Required: Country Groups S and Z and countries listed in Supplement No. 5 to part 778 of this subchapter.

GLV $ Value Limit: $0 for all destinations.

Processing Code: TE.

Reason for Control: Foreign policy.

Special Licenses Available: None.

List of Equipment Controlled by ECCN 5129F

Any of the following types of chemical processing equipment lined with nickel or constructed of Hastelloy, Monel, or another alloy with a nickel content in excess of 40% by weight, as follows:

(a) Reactor vessels with a capacity greater than 5 liters;

(b) Storage tanks and containers with a capacity greater than 10 liters;

(c) Heat exchangers;

(d) Distillation columns with a capacity greater than 2 liters per hour;

(e) Degassing equipment or condensers.

7. In Supplement No. 1 to section 799.1 (the Commodity Control List), Commodity Group 1 (Chemical and Petroleum Equipment), a new ECCN 5132F is added immediately following ECCN 3131A, as follows:

5132F Pumps or valves designed to be vapor leak proof.

Controls for ECCN 5132F

Unit: Report in "number".

Validated License Required: Country Groups S and Z and countries listed in Supplement No. 5 to part 778 of this subchapter.

GLV $ Value Limit: $0 for all destinations.

Processing Code: TE.

Reason for Control: Foreign policy.

Special Licenses Available: None.

List of Equipment Controlled by ECCN 5132F

Pumps or valves having any of the following characteristics:

(a) Incorporating a body made from alloy with a nickel content in excess of 40% by weight;

(b) Lined with nickel; or

(c) Otherwise designed to be vapor leak proof.

Note: This ECCN 5132F controls double seal, electromagnetic drive, or canned pumps, and bellows or diaphragm valves, having any of the characteristics described in paragraphs (a) through (c) of the List of Equipment Controlled.

8. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 1 (Chemical and Petroleum Equipment), a new ECCN 5133F is added immediately following ECCN 5132F, as follows:

5133F Thermometers or other chemical process sensors encased in nickel alloy having a nickel content greater than 40%.

Controls for ECCN 5133F

Unit: Report in "number".

Validated License Required: Country Groups S and Z and countries listed in Supplement No. 5 to part 778 of this subchapter.

GLV $ Value Limit: $0 for all destinations.

Processing Code: TE.

Reason for Control: Foreign policy.

Special Licenses Available: None.

9. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 1 (Chemical and Petroleum Equipment), a new ECCN 5134F is added immediately following ECCN 5133F, as follows:

5134F Filling equipment enclosed in a glove box or similar environmental barrier, or incorporating a nickel-lined or Hastelloy nozzle.

Controls for ECCN 5134F

Unit: Report in "number".

Validated License Required: Country Groups S and Z countries listed in Supplement No. 5 to part 778 of this subchapter.

GLV $ Value Limit: $0 for all destinations.

Processing Code: TE.

[1] See § 770.2 of this subchapter for definition.

[2] See footnote 1.

Reason for Control: Foreign policy.
Special Licenses Available: None.

10. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 1 (Chemical and Petroleum Equipment), a new ECCN 5135F is added immediately following ECCN 5134F, as follows:

5135F Specially designed incinerators for chemical precursors listed in ECCN 4798B, chemical warfare agents, or organophosphorus compounds.

Controls for ECCN 5135F

Unit: Report in "number".
Validated License Required: Country Groups S and Z countries listed in Supplement No. 5 to part 778 of this subchapter.
GLV $ Value Limit: $0 for all destinations.
Processing Code: TE.
Reason for Control: Foreign policy.
Special Licenses Available: None.

11. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 1 (Chemical and Petroleum Equipment), a new ECCN 5140F is added immediately following ECCN 5135F, as follows:

5140F Toxic gas monitoring systems.

Controls for ECCN 5140F

Unit: Report in "number".
Validated License Required: Country Groups S and Z countries listed in Supplement No. 5 to part 778 of this subchapter.
GLV $ Value Limit: $0 for all destinations.
Processing Code: TE.
Reason for Control: Foreign policy.
Special Licenses Available: None.

List of Equipment Controlled by ECCN 5140F

Toxic gas monitoring systems designed to detect phosphorus, sulphur, or fluorine compounds, or designed to detect any chemical weapons precursor or chemical warfare agent, that are:

(a) Designed for continuous operation; and

(b) Capable of detecting such chemicals at a concentration less than 0.1 milligrams per cubic meter of air.

12. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 1 (Chemical and Petroleum Equipment), a new ECCN 5141F is added immediately following ECCN 5141F, as follows:

5141F Monitoring systems for the detection of chemical compounds having anticholinesterase activity.

Controls for ECCN 5141F

Unit: Report in "number".
Validated License Required: Country Groups S and Z countries listed in Supplement No. 5 to part 778 of this subchapter.
GLV $ Value Limit: $0 for all destinations.
Processing Code: TE.
Reason for Control: Foreign policy.
Special Licenses Available: None.

13. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 1 (Chemical and Petroleum Equipment), a new ECCN 5165F is added immediately following ECCN 1145F, as follows:

5165F Detection or assay systems that are capable of detecting concentrations of less than one part per million in air of biological agents or toxins controlled by ECCN 4997B or ECCN 4998B.

Controls for ECCN 5165F

Unit: Report in "number".
Validated License Required: Country Groups S and Z and countries listed in Supplement No. 5 to part 778 of this subchapter.
GLV $ Value Limit: $0 for all destinations.
Processing Code: TE.
Reason for Control: Foreign policy.
Special Licenses Available: None.

14. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 1 (Chemical and Petroleum Equipment), a new ECCN 5167F is added immediately following ECCN 5165F, as follows:

5167F Biohazard containment equipment.

Controls for ECCN 5167F

Unit: Report in "number".
Validated License Required: Country Groups S and Z and countries listed in Supplement No. 5 to part 778 of this subchapter.
GLV $ Value Limit: $0 for all destinations.
Processing Code: TE.
Reason for Control: Foreign policy.
Special Licenses Available: None.

List of Equipment Controlled Under ECCN 5167F

Biohazard containment equipment, as follows:

(a) Complete P3 or P4 level laboratory facilities;

(b) Equipment that incorporates or is contained in a P–3 or P–4 containment housing.

15. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 1 (Chemical and Petroleum Equipment), a new ECCN 5170F is added immediately following ECCN 5167F, as follows:

5170F Equipment for the microencapsulation of live microorganisms.

Controls for ECCN 5170F

Unit: Report in "number".
Validated License Required: Country Groups S and Z and countries listed in Supplement No. 5 to part 778 of this subchapter.
GLV $ Value Limit: $0 for all destinations.
Processing Code: TE.
Reason for Control: Foreign policy.
Special Licenses Available: None.

16. In Supplement No. 1 to section 799.1 (the Commodity Control List), Commodity Group 7 (Chemicals, Metalloids, Petroleum Products and Related Materials), a new ECCN 5797F is added immediately following ECCN 4784B, as follows:

5797F Intermediate chemicals used in the production of chemical warfare agents.

Controls for ECCN 5797F

Unit: Report in "$ value".
Validated License Required: Country Groups S and Z and countries listed in Supplement No. 5 to part 778 of this subchapter.
GLV $ Value Limit: $0 for all destinations.
Processing Code: TE
Reason for Control: Foreign policy.
Special Licenses Available: None.

List of Chemicals Controlled by ECCN 5797F

(a) (C.A.S. #693–13–0) Di-isopropylcarbodiimide;

(b) (C.A.S. #538–75–0) Di-cyclohexocarbodiimide.

17. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 9 (miscellaneous), a new ECCN 5997F is added immediately following ECCN 4997B, as follows:

5997F Complex media (specifically brain/heart infusion media) for the growth of microorganisms in Class 3 or Class 4, in quantities greater than 100 kilograms.

Controls for ECCN 5997F

Unit: Report in "number".
Validated License Required: Country Groups S and Z and countries listed in Supplement No. 5 to part 778 of this subchapter.
GLV $ Value Limit: $0 for all destinations.
Processing Code: TE.
Reason for Control: Foreign policy.
Special Licenses Available: None.

Dated: March 7, 1991.

James M. Lafferayne,

Deputy Assistant Secretary for Export Administration.

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DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Parts 771, 776, and 778

[Docket No. 910249-1049]

Imposition and Expansion of Foreign Policy Controls

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Proposed rule and request for public comment.

SUMMARY: The Department of Commerce is proposing to amend the Export Administration Regulations (EAR) in support of U.S. non-proliferation policies. This proposal would impose foreign policy controls on certain exports by providing authority to deny items that already require a validated license, for any reason other than short supply, where the export is determined to be for a facility involved in the design, development, production, or use of missiles or chemical or biological weapons.

This proposal would also impose foreign policy controls on exports to specified destinations when the exporter knows, or to any destination when the exporter is informed by the Office of Export Licensing (OEL), that the commodities, technical data, or software will be used in the design, development, production or use of missiles or of chemical or biological weapons, or are destined for a facility engaged in such activities.

In addition, this proposal would impose foreign policy controls on exports to specified destinations when a U.S. person knows, or to any destination when the U.S. person is informed by OEL, that the commodities, technical data, or software will be used in the design, development, production, or use of missiles or chemical or biological weapons, or are destined for a facility engaged in such activities. Neither may a U.S. person, without a validated license, perform any contract, service, or employment knowing that it assists such activities.

This proposal would also impose foreign policy controls on participation and support by U.S. persons in the design, development, production, or use of missiles or of chemical or biological weapons.

This proposal would restrict participation by U.S. persons in construction of whole plants to produce chemical weapon precursors in certain countries.

This proposal would also make changes in the organization of regulations relating to weapons proliferation, grouping them in newly designated part 778, Proliferation Controls.

DATES: Comments must be received by April 12, 1991.

ADDRESSES: Written comments (six copies) should be sent to: Patricia Muldonian, Office of Technology and Policy Analysis, Bureau of Export Administration, Department of Commerce, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Kathryn Sullivan, Bureau of Export Administration, Telephone: (202) 377-8760.

SUPPLEMENTARY INFORMATION:

Background

The Department of Commerce, in consultation with the Department of State, has decided to propose expanding foreign policy controls in several ways in support of U.S. non-proliferation policies.

One proposed EAR change would provide authority to deny a license for exports of items that already require a validated license, for any reason other than short supply, where the export could be destined for the design, development, production, or use of missiles or chemical or biological weapons, or for a facility engaged in such activities.

The proposed rule would also impose foreign policy controls on exports to specified destinations when the exporter knows the export will be used in the design, development, production, stockpiling, or use of missiles or of chemical or biological weapons, or is destined for a facility engaged in such activities.

The rule does not provide a proposed definition of the term "know". However, consideration is being given to whether such a definition is advisable. The following definition is under consideration for inclusion in the final rule, and comments on the need for and wording of a definition are especially encouraged.

Know. Except as the term is used in part 769, a person shall be considered to know a circumstance or result when that person:

(a) Is aware that such circumstance exists, or that such result is substantially certain to occur; or

(b) Has a firm belief that such circumstance exists, or that such result is substantially certain to occur.

A person knows of the existence of a particular circumstance if that person is aware of a high probability of the existence of such circumstance, unless the person actually believes that such circumstance does not exist.

In addition, the proposed rule would amend the EAR to make clear that the Office of Export Licensing may inform an exporter at any time that a validated license is required for a specific export or reexport transaction or for exports or reexports to a specific end-user or end-use because of an unacceptable risk that such shipments will be used in sensitive nuclear activities, in the design, development, production, stockpiling, or use of chemical or biological weapons, or in the design, development, production or use of missiles. An exporter or reexporter may be individually informed by OEL, or notice may be published in the Federal Register. This proposal would provide new supplements to the EAR to identify regions and countries, as well as facilities and projects, to which certain validated license requirements apply.

Also, the proposed rule would substitute the term "missiles" for the current "missiles capable of delivering nuclear weapons". The definition of such missiles, as contained in the EAR, is not affected by this change.

Also, the proposed rule would add a new provision to the EAR to restrict participation by U.S. persons in missile, chemical weapons, or biological weapons development. No U.S. person may knowingly export or reexport to specified destinations commodities, software, or technical data, regardless of origin, for use in the design, development, production, stockpiling, or use of chemical or biological weapons, or of missiles, or to a facility engaged in such activities. Nor may a U.S. person, without a validated license, perform any contract, service, or employment knowing that it assists such activities. When a U.S. person has been informed by OEL, these prohibitions apply to any destination. In addition, the rule restricts participation and support by U.S. persons in the design, construction, or export of whole plants to make precursors for chemical weapons. This prohibition also extends to support of any such transactions, through financing, freight forwarding, or other comparable activities. The term "U.S. person" is defined for the purposes of these provisions to include foreign branches of companies organized in the United States.

In amending the Export Administration Act of 1979 in 1985, the Congress added section 6(m), which prohibited the President from restricting transactions in performance of a contract entered into before the date of a report to Congress of the intent to

impose a foreign policy control. The effect of that provision has been to require approval of export license applications when a contract predates the control program, unless denial is based on some other control provision of the EAR. While contract sanctity is provided in this proposal, serious consideration is being given to eliminating these contract sanctity provisions when the final rule is published, in light of the serious concerns raised by missiles or chemical or biological weapons. The Department invites public comments on this issue, as well as all other aspects of the regulation.

Consistent with the prohibitions on trade with Iraq and Kuwait contained in the Executive Orders issued on August 2 and 9, 1990, exporters should obtain guidance from the U.S. Department of Treasury, Office of Foreign Assets Control concerning any export or reexport to Iraq or Kuwait.

On March 7, 1991, the Department submitted a report notifying the Congress of its intent to impose these controls. To provide contract sanctity, export licenses may be issued on a case-by-case basis for the export of commodities, software, or technical data subject to these new controls in performance of a contract or an agreement entered into before March 7, 1991 (the date of notification to Congress of intent to impose these controls).

Rulemaking Requirements and Invitation to Comment

1. This rule is consistent with Executive Orders 12291 and 12661.

2. This rule involves collections of information subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). These collections have been approved by the Office of Management and Budget under control numbers 0694–0005 and 0694–0010.

3. This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612.

4. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by section 553 of the Administrative Procedure Act (5 U.S.C. 553), or by any other law, under sections 603(a) and 604(a) of the Regulatory Flexibility Act (5 U.S.C. 603(a) and 604(a)) no initial or final Regulatory Flexibility Analysis has to be or will be prepared.

5. The provisions of the Administrative Procedure Act, 5 U.S.C. 553, requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in effective date, are inapplicable because this regulation involves a foreign and military affairs function of the United States. The Secretary of Commerce has submitted a report to Congress on the need for these controls. No other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule.

However, because of the importance of the issues raised by these regulations, this rule is being issued in proposed form and comments will be considered in the development of final regulations. Accordingly, the Department encourages interested persons who wish to comment to do so at the earliest possible time to permit the fullest consideration of their views. Comments on the suggested definition of "know" and on the contract sanctity provisions contained in this rule are especially encouraged.

The period for submission of comments will close (April 12, 1991.). The Department will consider all comments received before the close of the comment period in developing final regulations. Comments received after the end of the comment period will be considered if possible, but their consideration cannot be assured. The Department will not accept public comments accompanied by a request that part or all of the material be treated confidentially because of its business proprietary nature or for any other reason. The Department will return such comments and will not consider them in the development of final regulations. All public comments on these regulations will be a matter of public record and will be available for public inspection and copying. In the interest of accuracy and completeness, the Department requires comments in written form. Oral comments must be followed by written memoranda, which will also be a matter of public record and will be available for public review and copying. Communications from agencies of the United States Government or foreign governments will not be made available for public inspection.

The public record concerning these regulations will be maintained in the Bureau of Export Administration Freedom of Information Records Inspection Facility, room 4518, Department of Commerce, 14th Street and Pennsylvania Avenue, NW., Washington, DC 20230. Records in this facility, including written public comments and memoranda summarizing the substance of oral communications, may be inspected and copied in accordance with regulations published in part 4 of title 15 of the Code of Federal Regulations. Information about the inspection and copying of records at the facility may be obtained from Margaret Cornejo, Bureau of Export Administration Freedom of Information Officer, at the above address or by calling (202) 377–2593.

List of Subjects

15 CFR Parts 771 and 776

Exports, Reporting and recordkeeping requirements.

15 CFR Part 778

Exports, Nuclear energy, Reporting and recordkeeping requirements.

Accordingly, parts 771, 776, and 778 of the Export Administration Regulations (15 CFR parts 730–799) are amended as follows:

1. The authority citations for parts 771, and 778 are revised to read as follows:

Authority: Public Law 96–72, 93 Stat. 503 (50 U.S.C. app. 2401 *et seq.*), as amended; Public Law 96–223, 91 Stat. 1626 (50 U.S.C. 1701 *et seq.*); Executive Order 12730 of September 30, 1990 (55 FR 40373, October 2, 1990); Executive Order 12735 of November 16, 1990 (55 FR 48587, November 20, 1990).

2. The authority citation for part 778 is revised to read as follows:

Authority: Public Law 96–72, 93 Stat. 503 (50 U.S.C. app. 2401 *et seq.*), as amended; Public Law 96–223, 91 Stat. 1626 (50 U.S.C. 1701 *et seq.*); Public Law 95–242, 92 Stat. 141 (42 U.S.C. 2139a(a)); Executive Order 12730 of September 30, 1990 (55 FR 40373, October 2, 1990); and Executive Order 12735 of November 16, 1990 (55 FR 48587, November 20, 1990).

PART 771—AMENDED

3. Section 771.2(c) is amended by removing the word "or" at the end of paragraphs (c)(11) and (c)(12), and by adding new paragraphs (c)(13) and (c)(14) to read as follows:

§ 771.2 General provisions.

* * * * *

(c) * * *

(13) The exporter either:

(i) Knows that the commodity, software or technical data:

(A) Are destined for any facility or project listed in Supplement No. 7 to part 778 of this subchapter; or

(B) Will be used in the design, development, production, or use of missiles in or by a country where a facility or project listed in Supplement No. 7 to part 778 of this subchapter is located; or

(ii) Is informed by OEL that a validated license is required for export to a consignee, wherever located.

because the export may apply to the design, development, production, or use of missiles;

(14) The exporter either:

(i) Knows that the commodity, software or technical data:

(A) Are destined for any facility listed in Supplement No. 6 to part 778 of this subchapter; or

(B) Will be used in the design, development, production, stockpiling, or use of chemical or biological weapons in or by a country listed in Supplement No. 5 to part 788; or

(ii) Is informed by OEL that a validated license is required for export to a consignee, wherever located, because the export may apply to the design, development, production, stockpiling, or use of chemical or biological weapons.

* * * * *

PART 776—AMENDED

4. Part 778 is amended by removing §§ 778.18, 778.19, and 778.20.

5. The heading to part 778 is revised to read as follows:

PART 778—PROLIFERATION CONTROLS

6. Section 778.1 is revised to read as follows:

§ 778.1 Purpose.

(a) *Scope.* This part defines the types of transactions that are governed by the U.S. policy concerning the non-proliferation of chemical and biological weapons, nuclear weapons or explosive devices, missile systems and the U.S. maritime nuclear propulsion policy. The controls implement policies set out in section 3(2) (A) and (B) of the Export Administration Act and section 309(c) of the Nuclear Non-Proliferation Act of 1978 (Pub. L. 95–242), that is:

(1) To exercise the necessary vigilance from the standpoint of their significance to the national security of the United States;

(2) To further significantly the foreign policy of the United States or to fulfill its international responsibilities; and

(3) To maintain controls over items because of their potential significance for nuclear explosive purposes.

(b) *Related legislation.* These controls supplement those exercised by the Nuclear Regulatory Commission and the Department of Energy under the Atomic Energy Act of 1954, as amended by the Nuclear Non-Proliferation Act of 1978 and other statutes, and by the Office of Defense Trade Controls, Department of State, under the Arms Export Control Act of 1976. (See §770.10 of this subchapter.)

§ 778.2 [Amended]

7. In § 778.2 paragraph (a) is amended by removing the last two sentences.

8. Section 778.3 is amended by adding two new sentences at the end of the introductory text to read as follows:

§ 778.3 Additional validated license requirements for exports with certain nuclear end-uses.

* * * When the Office of Export Licensing determines that there is an unacceptable risk of use in or diversion to such activities, it may inform the exporter, either individually or through amendment to the regulations in this subchapter, that an individual validated license is required. However, the absence of any such notification does not excuse the exporter from compliance with the validated license requirements of this section.

* * * * *

9. A new § 778.6 is added to read as follows:

§ 778.6 Preparing nuclear-related application.

An application for a license to export commodities or technical data subject to provisions of § 778.2, § 778.3, or § 778.5 shall be prepared and submitted on Form BXA–622P, Application for Export License, in accordance with instructions set forth in §§ 772.5 and 779.5(e) of this subchapter with the following additional instructions:

(a) *Identification of License Application.* Enter the words "NUCLEAR CONTROLS" in Item 4, "Special Purpose," of Form BXA–622P.

(b) *Consignee in country of ultimate destination.* If the consignee in the country of ultimate destination is not the end-user of the commodities give the name and address of the end-user in item 12, "Special End-Use," or on an attachment to the application, and if known, the specific geographic locations of any installations, establishments, or sites at which the commodities will be used.

(c) *Commodity description.* (1) If the CCL entry in question is divided into sub-entries, indicate the specific sub-entry that describes the commodity. In addition, specifications or descriptive brochures should be provided when available.

(2) If applicable, include a description of any specific features of design or specific modifications that make the commodity capable of the uses described in § 778.3.

(d) *End-use.* (1) A vague or general end-use description will delay review of an application. Applications indicating resale as the end-use sometimes must be returned without action in order to obtain more information.

(2) When submitting an application under § 778.3, fully explain the basis for the knowledge or belief that the commodities are intended for the purpose(s) described therein. Additionally, indicate, if possible, the specific end-use(s) the commodities will have in the designing, developing, fabricating, or testing nuclear weapons or nuclear explosive devices or in the designing, constructing, fabricating, or operating the facilities described in § 778.3.

10. Sections 778.7 and 778.8 are revised to read as follows:

§ 778.7 Equipment and related technical data used in the design, development, production, or use of missiles.

(a) *Validated license requirements.* In support of U.S. foreign policy to limit the proliferation of missiles, an individual validated license is required to export certain commodities, software, and technical data related to the design, development, production, or use of such missiles to Country Groups QSTVWYZ.

(1) *Commodities subject to weapons delivery systems controls.* The commodities that require a validated license because they are subject to foreign policy controls on weapons delivery systems appear within ECCNs 2018A, 2118A, 4118B, 4302B, 1357A, 1361A, 1362A, 1385A, 1460A, 1485A, 1501A, 1518A, 1517A, 4518B, 1522A 1529A, 4529B, 1531A, 1533A, 1564A, 4564B, 1585A, 1568A, 4568A, 4587B, 1595A, 1715A, and 1748A. Exporters should consult the Reason for Control paragraph in each ECCN to determine the specific items subject to these foreign policy controls.

(2) *Technical data and software subject to weapons delivery systems controls.* Technical data and software that require a validated license because they are subject to foreign policy controls on nuclear weapons delivery systems are listed in paragraph (4) of Supplement No. 4 to part 779 of this subchapter.

(3) *Definition.* The term "missiles" is defined as rocket systems (including ballistic missile systems, space launch vehicles, and sounding rockets) and unmanned air vehicle systems (including cruise missile systems, target drones, and reconnaissance drones) capable of delivering at least 500 kilograms (kg) payload to a range of at least 300 kilometers (km).

(b) *Controls on other commodities, technical data, and software.* BXA will review license applications, in accordance with the licensing policy described in paragraph (d) of this section, for commodities, technical data, or software not described in paragraph (a) of this section that:

(1) Require a validated license for reasons other than short supply; and

(2) Could be destined for the design, development, production, or use of missiles, or for a facility engaged in such activities.

(c) *Additional validated license requirements based on end-uses related to the design, development, production, or use of missiles.* (1) In addition to the validated license requirements described in paragraph (a) and paragraph (b) of this section, a validated license is required to export any commodity, software, or technical data (excluding technical data exportable under the provisions of General License GTDA and commodities identified in ECCN 7599I or 7999I), when the exporter knows that the commodities, software, or technical data:

(i) Are destined for any facility or project listed in Supplement No. 7 to part 778; or

(ii) Will be used in the design, development, production or use of missiles in or by a country where a facility or project listed in Supplement No. 7 to part 778 is located.

(2) The Office of Export Licensing may inform the exporter, either individually or through amendment to these regulations, that an individual validated license is required because there is an unacceptable risk of use in or diversion to such activities, anywhere in the world. However, the absence of any such notification does not excuse the exporter from compliance with the validated license requirements of paragraph (c)(1) of this section. Those facilities, projects, companies, or government entities currently identified are listed in Supplement No. 7 to part 778.

(d) *Licensing policy.* (1) Unless the criteria stated in paragraphs (d)(3), (d)(4) or (d)(5) of this section are met, applications to export the commodities will be considered on a case-by-case basis to determine whether the export would make a material contribution to the proliferation of missiles. When an export is deemed to make such a contribution, the license will be denied.

(2) The following factors are among those that will be considered to determine what action should be taken on individual applications:

(i) The specific nature of the end-use;

(ii) The significance of the export in terms of its contribution to the design, development, production, or use of missiles;

(iii) The capabilities and objectives of the missile and space programs of the recipient country;

(iv) The non-proliferation credentials of the importing country; and

(v) The types of assurances or guarantees against design, development production or use, of missiles delivery purposes that are given in a particular case.

(3) Consistent with section 6(m) of the EAA, the following contract sanctity dates have been established:

(i) License applications involving contracts for batch mixers specified in ECCN 4118B that were entered into prior to January 19, 1990, will be considered on a case-by-case basis.

(ii) License applications for commodities, technical data, or software described only in paragraph (b) or (c) of this section that involve a contract entered into prior to March 7, 1991, will be considered on a case-by-case basis.

(iii) Applicants who wish a pre-existing contract to be considered in reviewing their license applications must submit documentation sufficient to establish the existence of a contract.

(e) Commodities and technical data described in paragraph (a) of this section are not eligible for special licenses.

§ 778.3 Chemical precursors and biological agents, and associated equipment and technical data.

(a) *Validated license requirements.* The following controls are maintained in support of the U.S. foreign policy of opposing the proliferation and illegal use of chemical and biological weapons:

(1) Chemicals identified in ECCN 4798B require a validated license for export from the United States to all destinations except Australia, Austria, Belgium, Canada, Denmark, the Federal Republic of Germany, France, Greece, Iceland, Ireland, Italy, Japan, Luxembourg, the Neitherlands, New Zealand, Norway, Portugal, Spain, Switzerland, Turkey, and the United Kingdom.

(2) Equipment identified in EECNs 5129F, 5132F, 5133F, 5134F, 5135F, 5140F, and 5141F in the Commodity Control List, which can be used in the production of chemical weapons precursors and chemical warfare agents, requires a validated license for export from the United States to Country Groups S and Z and regions and countries listed in Supplement No. 5 to Part 778.

(3) Viruses and viroids identified in ECCN 4997B and bacteria, fungi, and protozoa identified in ECCN 4998B require a validated license to all destinations except Canada.

(4) Equipment and materials identified Regional Director, ECCNs 5165F, 5167F, 5170F, 5797F, and 5997F, which can be used in the production of biological agents, require a validated license for export from the United States to Country Groups S and Z and regions and countries listed in Supplement No. 5 to part 778.

(5) The following restrictions apply to use of General License GTDR:

(i) General License GTDR is not available for technical data for the production of chemical precursors described in paragraph (a)(1) of this section, except to Australia, Austria, Belgium, Canada, Denmark, the Federal Republic of Germany, France, Greece, Iceland, Ireland, Italy, Japan, Luxembourg, the Netherlands, New Zealand, Norway, Portugal, Spain, Switzerland, Turkey, and the United Kingdom;

(ii) General License GTDR is not available for the export of technical data for the production of commodities described in paragraphs (a)(2) and (a)(4), of this section to regions and countries listed in Supplement No. 5 to Part 778;

(iii) General License GTDR is not available for the export of technical data for the production of commodities described in paragraph (a)(3) of this section;

(iv) (A) General License GTDR is not available for technical data for facilities designed or intended to produce chemical weapons precusors controlled by ECCN 4798B on the CCL, involving the following:

(*1*) Overall plant design;

(*2*) Design, specification, or procurement of equipment;

(*3*) Supervision of construction, installation, or operation of complete plant or components thereof;

(*4*) Training of personnel;

(*5*) Consultation on specific problems involving such facilities.

(B) This prohibition on use of General License GTDR does not apply to exports to Australia, Austria, Belgium, Canada, Denmark, the Federal Republic of Germany, France, Greece, Iceland, Ireland, Italy, Japan, Luxembourg, the Netherlands, New Zealand, Norway, Portugal, Spain, Switzerland, Turkey, and the United Kingdom;

(v) General License GTDR is available only to Australia, Austria, Belgium, Canada, Denmark, the Federal Republic of Germany, France, Greece, Iceland, Ireland, Italy, Japan, Luxembourg, the Netherlands, New Zealand, Norway, Portugal, Spain, Switzerland, Turkey, and the United Kingdom, for software for process control that is specifically configured to control or initiate the production of chemical weapons precusors controlled by ECCN 4798B.

(b) *Controls on other commodities, technical data, and software.* BXA will

review license applications, in accordance with the licensing policy described in paragraph (d) of this section, for commodities, technical data, or software not described in paragraph (a) of the section that:

(1) Require a validated license for reasons other than short supply;

(2) Are destined to a country other than those listed in paragraph (a)(1) of this section; and

(3) Could be destined for the design, development, production, stockpiling, or use of chemical or biological weapons, or for a facility engaged in such activities.

(c) *Additional validated license requirements based on end-uses related to the design, development, production, stockpiling, or use of chemical or biological weapons.* (1) In additon to the validated license requirements described in paragraph (a) and paragraph (b) of this section, a validated license is required to export any commodity, software, or technical data excluding technical data exportable under the provisions of General License GTDA and commodities identified in ECCN 7599I or 7999I), when the exporter knows that the commodities, software, or technical data:

(i) Are destined for any facility listed in Supplement No. 6 to par 778; or

(ii) Will be used in the design, development, production, stockpiling, or use of chemical or biological weapons in or by a region or country listed in Supplement No. 5 to part 778.

(2) The Office of Export Licensing may inform the exporter, either individually or through amendment to these regulations, that an individual validated license is required because there is an unacceptable risk of use in or diversion to such activities, anywhere in the world. However, the absence of any such notification does not excuse the exporter from compliance with the validated license requirements of paragraph (c)(1) of this section. Those facilities currently identified are listed in Supplement No. 6 to part 778.

(d) *Licensing policy.* (1) Unless the criteria stated in paragraph (d)(3) of this section are met, applications to export the commodities and technical data subject to this policy will be considered on a case-by-case basis to determine whether the export would make a material contribution to the design, development, production, stockpiling, or use of chemical or biological weapons. When an export is deemed to make such a contribution, the license will be denied.

(2) The following factors are among those that will be considered to determine what action should be taken on individual applications:

(i) The specific nature of the end-use;

(ii) The significance of the export in terms of its contribution to the design, development, production, stockpiling, or use of chemical or biological weapons;

(iii) The non-proliferation credentials of the importing country; and

(iv) The types of assurances or guarantees against design, development, production, stockpiling, or use of chemical or biological weapons that are given in a particular case.

(3) *Contract sanctity.* Consistent with section 6(m) of the EAA, the following contract sanctity dates have been established.

(i) The contract sanctity date for exports to Syria of dimethyl methylphosphonate, methyl phosphonyldifluoride, phosphorous oxychloride, thiodiglycol, dimethylamine hydrochloride, dimethylamine, ethylene chlorohydrin (2-chloroethanol), and potassium fluoride is April 28, 1986.

(ii) The contract sanctity date for exports to Iran or Syria of dimethyl phosphite (dimethyl hydrogen phosphite), methyl phosphonyldichloride, 3-quinuclidinol, N,N-diisopropylaminoethane-2-thiol, N,N-diisopropylaminoethyl-2-chloride, 3-hydroxy-1-methylpiperidine, trimethyl phosphite, phosphorous trichloride, and thionyl chloride is July 6, 1987.

(iii) The contract sanctity date for exports to Iran or Syria of items in ECCNs 4997B and 4998B is February 22, 1989.

(iv) The contract sanctity date for exports to Iran of dimethyl methylphosphonate, methylphosphonyl dichloride, methylphosphonyl difluoride, phosphorous oxychloride, and thiodiglycol is February 22, 1989.

(v) The contract sanctity date for exports to Syria of dimethyl methylphosphonate, methylphosphonyl dichloride, and methylphosphonyl difluoride is February 22, 1989.

(vi) The contract sanctity date for exports to Iran, Libya, or Syria of potassium hydrogen fluoride, ammonium hydrogen fluoride, sodium fluoride, sodium bifluoride, phosphorus pentasulfide, sodium cyanide, triethanolamine, diisopropylamine, sodium sulfide, and N,N-diethylethanolamine is December 12, 1989.

(vii) The contract sanctity date for exports to all destinations (except Iran or Syria) of phosphorus trichloride, trimethyl phosphite, and thionyl chloride is December 12, 1989. For exports to Iran or Syria, paragraph (d)(3)(ii) of this section applies.

(viii) The contract sanctity date for exports to all destinations (except Iran, Libya, or Syria) of 2-chloroethenol and triethanolamine is January 15, 1991. For exports of 2-chloroethanol to Syria, paragraph (d)(3)(i) of this section applies. For exports of triethanolamine to Iran, Libya, or Syria, paragraph (d)(3)(vi) of this section applies.

(ix) The contract sanctity date for exports to all destinations (except Iran, Libya, or Syria) of chemicals controlled by ECCN 4798B is March 7, 1991, except for applications to export the following chemicals: 2-chloroethanol, dimethyl methylphosphonate, dimethyl phosphite (dimethyl hydrogen phosphite), methylphosphonyl dichloride, methylphosphonyl difluoride, phosphorous oxychloride, phosphorous trichloride, thiodiglycol, thionyl chloride, triethanolamine, and trimethyl phosphite. (See also paragraphs (d)(3)(vi) and (d)(3)(vii) of this section.) For exports to Iran, Libya, or Syria, see paragraphs (d)(3)(i) through (d)(3)(vi) of this section.

(x) The contract sanctity date for exports of the following commodities and technical data is March 7, 1991:

(A) equipment (for producing chemical weapon precursors and chemical warfare agents) described in paragraph (a)(2) of this section;

(B) Equipment and materials (for producing biological agents) described in paragraph (a)(4) of this section;

(C) Technical data described in paragraph (a)(5) of this section; and

(D) Commodities, technical data, or software described in paragraph (c) of this section.

(xi) The contract sanctity date for exports of commodities, technical data, or software described in paragraph (b) of this section is March 7, 1991.

(xii) The contract sanctity date for reexports of chemicals controlled under ECCN 4798B is March 7, 1991, except that the contract sanctity date for reexports of these chemicals to Iran, Libya, or Syria is December 12, 1989.

(xiii) The contract sanctity date for reexports of viruses and viroids identified under ECCN 4997B and bacteria fungi, and protozoa identified under ECCN 4998B is March 7, 1991.

(4) When preparing a license application for chemicals, applicants shall type the Chemical Abstract Service (C.A.S.) Registry number in Item 9(b) before each chemical name. The C.A.S. numbers are listed with the controlled chemicals in ECCN 4798B under the "List of Chemicals." See Supplement No. 1 to § 799.2 of this subchapter, Interpretation 23: Precursor Chemicals.

CONFERENCE ON DISARMAMENT

CD/1087
8 July 1991

Original: ENGLISH

LETTER DATED 8 JULY 1991 FROM THE DEPUTY REPRESENTATIVE OF THE UNITED STATES OF AMERICA ADDRESSED TO THE PRESIDENT OF THE CONFERENCE ON DISARMAMENT TRANSMITTING A STATEMENT DELIVERED ON 25 JUNE 1991, BY AMBASSADOR DAVID J. SMITH, CHIEF UNITED STATES NEGOTIATOR FOR THE DEFENSE AND SPACE TALKS, IN THE AD HOC COMMITTEE ON PREVENTION OF AN ARMS RACE IN OUTER SPACE OF THE CONFERENCE ON DISARMAMENT

I have the honour to forward to you the attached Statement to the Outer Space Committee of the Conference on Disarmament, delivered on 25 June 1991, by Ambassador David J. Smith, Chief United States Negotiator for the Defense and Space Talks.

I request that you take the appropriate steps to register this Statement as an official document of the Conference on Disarmament and to have it distributed to all member delegations and non-member States participating in the work of the Conference.

(Signed) M. Lyall Breckon
Deputy Representative of the
United States of America to
the Conference on Disarmament

GE.91-61689/0732H

Statement to the Outer Space Committee
of the Conference on Disarmament
25 June 1991

by

Ambassador David J. Smith
Chief United States Negotiator
for the Defense and Space Talks

Mr. Chairman,

I

When I last had the privilege of addressing the Conference on Disarmament on the status of the Defense and Space Talks, I began by stressing President George Bush's words of 7 February 1990: "In the 1990s, strategic defenses make more sense than ever before." I begin this way again today because so many of the events of the 16 months since those words were spoken have proven them all the more valid.

The President was speaking at the mid-point of a two-year review of the United States Strategic Defense Initiative (SDI) at a time when many rapid changes were occurring in the world. These changes diminished our concern over the possibility of a strategic first strike with ballistic missiles against the United States relative to our growing concern over ballistic missile proliferation and accidental or unauthorized launches. Therefore, in his 29 January 1991, State of the Union Address, President Bush ordered redirection of the SDI programme to "protection from limited ballistic missile strikes, whatever their source".

Though backed by two years of study which began long before anyone imagined there would be a Persian Gulf War, the President's announcement could not be heard but through the thunder of the War. From that perspective, the results of our study and the President's decision were prescient.

President Bush recently summed it all up in a few sentences addressed to the graduating class of the United States Air Force Academy on 29 May 1991:

> "We learned that missile defense works and that it promotes peace and security. In the Gulf we had the technologies of defense to pick up where theories of deterrence left off. The Patriot saved lives and helped keep the coalition together.
>
> And while the Patriot worked well in the Gulf, we must prepare for the missiles more likely to be used by future aggressors. We cannot build a defense system that simply responds to the threats of the past."

II

Despite the overwhelming military force marshalled to enforce United Nations resolutions, notions of deterrence prevented neither the tragic war in the Gulf from starting nor ballistic missiles from being launched. SCUD missiles were fired in the opening days of conflict and targeted at civilian populations. Patriot interceptors defended troops and civilians, and greatly lessened the political terror that the SCUD attacks were designed to spread. The Patriot proved instrumental in containing the conflict, maintaining the international coalition, and possibly shortening the war. And let us not forget the most simple and important fact: the Patriot saved lives.

Yet, had these SCUD missiles been mated with chemical or nuclear warheads, the short-range Patriots could not have intercepted their targets far enough from civilian populations to provide the necessary defence. Far greater human tragedy would have occurred. Further, the SCUD is an old ballistic missile; far more capable missiles have already been developed.

The Patriot originally was designed as a point air defence weapon; it does not have the range, speed and manoeuvrability to intercept more capable, advanced types of ballistic missiles. Its success proved that defensive technology is feasible, but advanced interceptors, much more capable than the Patriot, are required to meet future crises that will involve ever more advanced missile threats.

According to the Secretary of Defense Dick Cheney, by the year 2000, in addition to the United States and Soviet Union, more than two dozen countries will have ballistic missiles; 15 of these countries will have the technical capabilities to produce their own missiles; half of these countries will have, or will be developing, nuclear capability. By 2000, 30 countries will have chemical weapons; 10 will be able to field biological weapons. Many of these countries will have ballistic missiles of various ranges; a few could achieve strategic range. In addition, as we saw in the Gulf War, ballistic missiles can be improved to add to their ranges and capabilities.

Such an environment can only be met with a broad, comprehensive strategy which includes political and diplomatic measures as well as defences. The United States is dedicated to strengthening and expanding the Missile Technology Control Regime and the Non-Proliferation Treaty, supporting the work of the Australia Group and advancing President Bush's Middle East arms control proposal. With dedication from all of us, we can expect to build upon the successes these efforts have already achieved. Still, experience and common sense suggest that these efforts alone cannot stop all proliferation. The introduction of modest, effective defences will complement the MTCR and other diplomatic efforts to deter missile proliferation.

III

America's new approach to ballistic missile defence, announced by President Bush on 29 January, is called Global Protection Against Limited Strikes (GPALS). Half the size of the original SDI "Phase I" plan, the GPALS architecture shifts the focus of strategic ballistic missile defence away from deterrence of a strategic ballistic missile attack to protection against the emerging and limited ballistic missile threat. Because it is limited in scope and scale, GPALS will not threaten the Soviet strategic retaliatory capability, an oft-stated Soviet concern over SDI. Therefore, given improving United States-Soviet relations and growing concern for ballistic missile proliferation and accidental and unauthorized launch, GPALS represents an appropriate approach to defences based on the evolving international environment.

A GPALS defence would include various sensors and three ground- and space-based interceptors to ensure global coverage against missiles of all ranges:

- Space- and surface-based sensors to provide global, continuous surveillance and tracking, from launch to intercept, of ballistic missiles of all ranges - theatre to strategic. This is a crucial element for a successful global defence.

- Surface-based, non-nuclear, transportable, kinetic interceptors to protect United States forces deployed abroad and United States allies and friends against ballistic missiles of theatre range.

- Space-based, non-nuclear, kinetic interceptors to provide continuous, global interception capability against missiles with ranges in excess of 500-1,000 km (300-600 miles). Thus, the space-based element will protect the United States, allies and friends against both theatre and strategic missiles and will provide the broadest, most effective global coverage.

- Finally, surface-based, non-nuclear, kinetic interceptors located in the United States to protect the United States from ballistic missiles of all ranges.

IV

Any meaningful deployment of ballistic missile defences will require a change in the legal regime established by the ABM Treaty. Therefore, although the world has changed, and our Program adjusted accordingly, our goal in the Defense and Space Talks remains consistent. We seek to negotiate a cooperative transition to allow increased reliance on strategic ballistic missile defences.

Over the six year history of our Talks, we have explained to our Soviet colleagues that, despite the best of intentions, the ABM Treaty did not yield the stability nor the reductions in strategic offensive arms its framers intended. It is not the ABM Treaty but the improved relationship

between the United States and the Soviet Union that is about to bring us the first ever agreement for stabilizing reductions in strategic offensive forces. Deployment of strategic defences would further enhance stability. We believe this argument is, and will remain, valid.

We also continue to believe that, in concert with reductions in strategic offensive arms, effective defences would greatly reduce any strategic benefits a side might obtain by cheating on international arms reductions agreements. Defences would help deter the proliferation of ballistic missile technology and devalue the potential political and military leverage of ballistic missiles - long thought to be the terror weapons of choice.

The proliferation of ballistic missile technology, underscored by the lessons learned from the Gulf War, confirms our conclusion that the regime established by the ABM Treaty must be changed. Positive changes in United States-Soviet relations, the need to address a truly mutual concern, and a United States ballistic missile defence programme which averts stated Soviet concerns may now provide a real opportunity for success in our negotiations. I stress that a negotiated cooperative transition is our goal. This is why we have been engaged in the Defense and Space Talks for six years and remain committed to their future.

V

The United States continues to offer a mechanism, the United States Defense and Space Treaty, to permit deployment of defences beyond the ABM Treaty following three years' discussion of specific measures for implementing a cooperative transition. Such a process of negotiation and discussion of concrete measures is far preferable to withdrawal from the ABM Treaty under the supreme interests provision found in article XV of that Treaty. The United States approach is measured, reasonable and appropriate.

We also understand full well that the negotiated cooperative transition we seek cannot be built in a vacuum but requires a sound foundation of trust. Therefore, another United States approach in the Defense and Space Talks is ensuring predictability in the development of the United States-Soviet strategic relationship which has up to now been characterized by secrecy. In contrast, openness makes the strategic relationship predictable, averting miscalculation and technological surprise, and thus is stabilizing.

To encourage openness, the United States has proposed a number of predictability measures designed to create a better understanding of strategic ballistic missile defence activities as early as the research stage - years before the appearance of advanced defences in the field. These United States measures include annual exchanges of data, meetings of experts, briefings, visits to laboratories, observations of tests, and ABM test satellite notifications.

As a demonstration of the United States approach and commitment to openness, at the Wyoming Ministerial in September 1989, Secretary of State Baker invited a group of Soviet experts to visit two United States laboratories conducting SDI research. In December 1989, 10 Soviet experts

visited the Alpha Chemical Laser at the TRW facility at San Juan Capistrano, California, and the BEAR Neutral Particle Beam Experiment at the Los Alamos National Laboratory, New Mexico. The Soviet guests saw hardware up close and had an opportunity to ask questions of United States scientists conducting the research.

To continue the momentum, Secretary Baker took further initiatives. In the spring of 1990, the United States proposed that the United States and Soviet Union conclude a free-standing executive agreement on these measures. Later in 1990, the United States proposed pilot implementation of United States predictability measures - a "trial-run". And last fall, the United States proposed that the two sides conduct "dual pilot implementation" - the United States would demonstrate its proposed predictability measures, and the Soviet Union would demonstrate its measures.

The United States remains committed to reciprocal openness in this area which we believe would be inherently stabilizing, consistent with the developing trends in United States-Soviet relations. We also believe that early conclusion of a free-standing predictability measures agreement would afford us the opportunity to build greater trust upon which we could construct even greater successes in the Defense and Space Talks.

VI

With the proliferation of ballistic missile technology growing near Soviet borders, and with our GPALS plan, the United States believes Soviet attitudes should evolve to permit defences against mutual concerns. Although to date there has been no shift in the official Soviet position on the deployment of defences beyond the narrow limits of the ABM Treaty, we continue to see evidence of an internal Soviet discussion over the role of ballistic missile defences. In addition, missile defence is more consistent with the new Soviet emphasis on "defensive doctrine". Thus, incentives exist for the Soviets to join with us to explore constructive measures to counter emerging threats.

The changes in the international environment, the lessons learned from the Gulf War, the improvement in United States-Soviet relations, and the shift to a defensive doctrine in the Soviet Union all should encourage our Soviet colleagues to consider relaxation of ABM Treaty constraints to meet mutual concerns.

There is considerable reason for optimism in the Defense and Space Talks. Here in Geneva, following the signing of the START Treaty, Presidents Bush and Gorbachev, in their June 1990 Washington Joint Summit Statement, committed the United States and USSR to seek an "appropriate relationship between strategic offences and defences". This is a good sign. Soon, the United States and the Soviet Union will begin to construct this new regime that could permit greater reliance on defences. This commitment should enable the sides to build upon improving relations and achieve success in future Defense and Space Talks to deal cooperatively with the evolving international environment.

CONFERENCE ON DISARMAMENT

CD/1088
8 July 1991

Original: ENGLISH

LETTER DATED 27 JUNE 1991 FROM THE PERMANENT REPRESENTATIVE OF CANADA ADDRESSED TO THE SECRETARY-GENERAL OF THE CONFERENCE ON DISARMAMENT TRANSMITTING THE ARMS CONTROL VERIFICATION OCCASIONAL PAPER NO. 7, ENTITLED "SATELLITES HARMING OTHER SATELLITES"*

During my plenary statement on 25 June I referred briefly to the questions of terminology and confidence-building measures in relation to the Prevention of an Arms Race in Outer Space. In this connection I have the honour of making available 112 copies, in English, of the Arms Control Verification Occasional Paper No. 7, entitled "Satellites Harming Other Satellites" by Dr. Peter Hughes, which explores a number of ambiguities concerning operations in space, analyses the concept of harm and touches on certain proposals for CMBs such as keep out zones and verification in space. I would be grateful if you would arrange for the distribution of these booklets to members of the Conference and to observers under a CD number. The French version will be available shortly.

(signed) Gerald E. Shannon
Ambassador and
Permanent Representative

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* A limited distribution of this brochure in English only has been made available to the members and non-members invited to participate in the work of the Conference on Disarmament. The French version will be available shortly.

GE.91-61695/0729H

CONFERENCE ON DISARMAMENT

CD/1089
CD/NTB/WP/14
25 July 1991

Original: ENGLISH

LETTER DATED 9 JULY 1991 FROM THE HEAD OF THE SWEDISH DELEGATION ADDRESSED TO THE SECRETARY-GENERAL OF THE CONFERENCE ON DISARMAMENT TRANSMITTING THE TEXT OF A DRAFT COMPREHENSIVE TEST-BAN TREATY AND ITS ANNEXED PROTOCOLS

I have the honour to send you enclosed a draft CTB Treaty and its annexed protocols which will be introduced by the Delegation of Sweden on 25 July 1991. It will also be presented in the Ad Hoc Committee on a Nuclear Test Ban on that same day.

I should be grateful if it could be issued as an official document of the Conference and translated into all the official languages. It would be appreciated if the document could be available in all the official languages, dated on 25 July 1991 and numbered both as a CD document and as a Working Paper in the Ad Hoc Committee.

(Signed) Carl-Magnus Hyltenius
Ambassador
Head of the Swedish Delegation
to the Conference on Disarmament

GE.91-61714/3354B

DRAFT COMPREHENSIVE NUCLEAR TEST-BAN TREATY

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DRAFT COMPREHENSIVE NUCLEAR TEST-BAN TREATY

The States Parties to this Treaty, hereinafter referred to as the "States Parties",

Convinced of the urgent need for an end to the nuclear arms race and the ultimate elimination of nuclear weapons,

Recalling the determination expressed by the Parties in the Preamble to the 1963 Treaty Banning Nuclear Weapons Tests in the Atmosphere, in Outer Space and Under Water to seek to achieve the discontinuance of all test explosions of nuclear weapons for all time, and to continue negotiations to this end,

Declaring their intention to achieve at the earliest possible date the cessation of the nuclear arms race and to undertake effective measures towards nuclear disarmament,

Urging the cooperation of all States in the attainment of this objective,

Convinced also that an end to nuclear testing by all States in all environments for all time is of fundamental importance to prevent the qualitative improvement and development of nuclear weapons and their further proliferation,

Have agreed as follows:

Article I

Basic Obligations

1. Each State Party undertakes to prohibit, to prevent, and not to carry out, in any environment, any test explosion of a nuclear explosive device.

2. Each State Party undertakes not to detonate anywhere any nuclear explosive device for peaceful purposes unless the States Parties have agreed on procedures for and controls of such nuclear explosions.

3. Each State Party undertakes, furthermore, to refrain from causing, encouraging, assisting, permitting or in any way participating in the carrying out anywhere of any nuclear explosion referred to in paragraphs 1 and 2 of this Article.

Article II

The Organization

1. The States Parties to the Treaty hereby establish a body hereinafter referred to as the "Organization" to achieve the objectives of the Treaty and to ensure the implementation of its provisions, including those for international verification of compliance with it, and to provide a forum for consultation and cooperation among the States Parties.

2. All States Parties shall be members of the Organization.

3. The seat of the Headquarters of the Organization shall be ...

4. The organs of the Organization shall be the Conference of the States Parties, the Executive Council and the Technical Secretariat.

5. The Conference of the State Parties is composed of all States Parties. It is the principal organ and oversees the implementation of, and the compliance with, the Treaty. It shall oversee the activities of the Executive Council and the Technical Secretariat.

6. The Executive Council, which is the executive organ of the Conference of the States Parties, shall in particular

- promote the effective implementation of, and compliance with, the Treaty;

- facilitate consultation among States Parties to resolve issues related to the Treaty, in particular to verification of compliance with its provisions;

- supervise the operation of the Technical Secretariat.

The Executive Council shall comprise twenty-five State Parties serving for a period of two years. The members of the Executive Council shall be elected by the Conference of the States Parties, with due regard given to an equitable political and geographical representation.

7. The Technical Secretariat shall assist States Parties, the Conference of the States Parties, and the Executive Council on issues of verification. It shall be headed by a Director-General. The Secretariat shall, inter alia,

- coordinate international cooperative arrangements to exchange seismological data, data on radionuclides in the atmosphere and other data relevant to the monitoring of compliance with the Treaty;

- conduct on-site monitoring and inspection at the invitation of a State Party, or at the request of the Executive Council;

- cooperate with the National Authorities of the States Parties to resolve uncertainties that a State Party may have about an event relevant to compliance with the Treaty.

8. The duties, functions and organization of the Conference of the States Parties, the Executive Council and the Technical Secretariat are further outlined in Protocol I.

Article III

National Implementation Measures

1. Each State Party undertakes to take any measures it considers necessary to prohibit and prevent any activity in violation of the provisions of the Treaty anywhere under its jurisdiction or control.

2. Each State Party shall inform the Organization established pursuant to Article II of this Treaty of the legislative and administrative measures taken to implement the Treaty.

3. In order to fulfil its obligations under the Treaty, each State Party shall designate or set up a National Authority and shall so inform the Organization upon entry into force of the Treaty for such a State Party. The National Authority shall serve as the national focal point for liaison with the Organization and with other States Parties.

4. Each State Party undertakes to cooperate in good faith with the Organization in the exercise of the functions of the Organization and, in particular, to provide assistance to the Technical Secretariat, including data reporting on a routine basis and in response to requests, and to provide assistance for on-site inspections, as provided for in this Treaty.

Article IV

Verification

1. Each State Party undertakes to cooperate in good faith to facilitate the verification of compliance with this Treaty to clarify any event which might cause concern to other States Parties to the Treaty through:

- an effective international exchange of seismological data;

- an effective international exchange of measurements on radionuclides in the atmosphere;

- additional relevant techniques as specified in Protocol II.

The arrangements for these international cooperative measures are laid down in Protocol II annexed to this Treaty.

Each State Party undertakes to establish the necessary facilities to participate in these cooperative measures and through its National Authority to establish the necessary communication channels with the Technical Secretariat.

These arrangements shall be operative on the entry into force of this Treaty.

2. Large non-nuclear explosions carried out by a State Party shall be conducted in accordance with provisions laid down in Protocol III.

3. The States Parties undertake to consult one another and to cooperate in good faith for the clarification of all events pertaining to matters relevant to compliance with this Treaty. Upon request from a State Party, the Technical Secretariat shall assist in this cooperation to facilitate the clarification of events observed. In accordance with this provision, each State Party undertakes:

- to provide the Technical Secretariat with any additional information it possesses that might assist in the interpretation of an event that may be of relevance to the Treaty which has occurred on its territory, or under its jurisdiction or control;

- to provide any relevant information, through the Technical Secretariat, in response to a request, by any other State Party.

4. Each State Party may conduct bilateral consultations with any other State Party on matters relevant to the Treaty, request information from any State Party, through the Technical Secretariat, on any events relevant to this Treaty occurring on the territory of that State or under its jurisdiction or control.

5. Each State Party may use national technical means of verification at its disposal in a manner consistent with generally recognized principles of international law to verify compliance with the Treaty. Each State Party undertakes not to interfere with national technical means of verification of any other State Party.

6. If a State Party is unable to clarify the nature of an event through the measures specified in paragraphs 1 through 5 of this Article, each State Party is entitled to request, through the Executive Council, an on-site inspection on the territory of any other State Party for the purpose of ascertaining whether or not a specified event was a nuclear explosion.

7. The requesting State Party shall state the reasons for its request, including the evidence available. The requested State Party is under the obligation to comply with a request for an inspection. Such an inspection shall be conducted by the Technical Secretariat, and the result shall be reported to the Executive Council and all States Parties. Procedures for such inspections, including the rights and functions of the inspecting personnel, are laid down in Protocol III.

8. An on-site inspection carried out by the Technical Secretariat may also follow an invitation to the Executive Council by the State Party on whose territory the event has occurred.

Article V

Non-compliance

1. If a State Party considers that another State Party has failed to fulfil its obligations to cooperate in good faith to facilitate the verification of this Treaty, it may raise the issue in the Executive Council. If the matter

cannot be resolved in the Executive Council, it may be taken up in the Conference of the States Parties. The Conference of the States Parties shall take the necessary measures to ensure compliance with the Treaty and to redress and remedy any situation which contravenes the provisions of the Treaty.

2. In cases where a State Party fails to fulfil a request to take measures to redress a situation which gives rise to problems with regard to its compliance with the Treaty, the Conference of the States Parties may request that the State Party's rights and privileges under the Treaty be suspended until it undertakes the necessary action to conform with its obligations under the Treaty.

3. Any State Party which finds that any other State Party is acting in breach of obligations deriving from the provisions of the Treaty, may lodge a complaint with the Secretary-General of the United Nations. Such a complaint shall include all possible evidence confirming its validity, as well as a request for its consideration.

4. Each State Party undertakes to cooperate in good faith in carrying out any investigation which the Security Council may initiate in accordance with the provisions of the Charter of the United Nations on the basis of the complaint received by the Council.

5. The Secretary-General shall inform the States Parties of the results of the investigation. He shall further inform the Security Council of any indication that a State Party may have acted in breach of obligations under the Treaty and may request the Council to decide on measures necessary to ensure compliance with the Treaty.

Article VI

Privileges and Immunities

1. The States Parties to this Treaty shall grant privileges and immunities to the representatives of States Parties and the members of delegations to the Conference of the States Parties, the members of the Executive Council, the Director-General and the personnel of the Technical Secretariat in accordance with the Vienna Convention on Diplomatic Relations of 18 April 1961 in order to enable them to carry out the functions entrusted to them under this Treaty.

2. Provisions regarding privileges and immunities in connection with on-site inspections are contained in Protocol III.

3. The State Party in whose territory the Headquarters of the Organization is located shall, as soon as possible, conclude with the Organization a Headquarters Agreement covering privileges, exemptions and immunities.

Article VII

Annexes

The Protocols I, II and III to this Treaty constitute integral parts of the Treaty.

Article VIII

Amendments

1. At any time after the entry into force of this Treaty, any State Party may propose amendments to the Treaty or to any annexed Protocol. Any proposal for an amendment shall be communicated to the Depositary, who shall circulate it to all States Parties and seek their views on whether a conference should be convened to consider the proposal. If a majority, that shall not be less than twenty, of the States Parties so agree, the Depositary shall promptly convene a conference to which all States Parties shall be invited. The Conference may adopt amendments proposed, if a majority of the States Parties present and voting, including the nuclear-weapon States, so agree. Amendments shall enter into force for each Party accepting them upon their adoption by the Conference and thereafter for each remaining Party on the date of acceptance of the amendments by such a Party.

2. Proposals for amendments of provisions of a technical nature to be specified in Protocols I, II and III will be subject to a simplified amendment procedure conducted and decided by the Executive Council.

Article IX

Review of the Treaty

Five years after the entry into force of this Treaty, or earlier if it is requested by a majority of Parties to the Treaty by submitting a proposal to this effect to the Depositary, a conference of States Parties to the Treaty shall be held at ....., to review the operation of the Treaty, with a view to assuring that the purposes of the preamble and the provisions of the Treaty are being realized. Such review shall take into account any new scientific and technological developments relevant to the Treaty.

Article X

Entry into force

1. This Treaty shall be open to all States for signature. Any State which does not sign this Treaty before its entry into force in accordance with this Article may accede to it at any time.

2. This Treaty shall be subject to ratification by Signatory States.

3. This Treaty shall enter into force upon the deposit of instruments of ratification by forty Governments, including the nuclear-weapon States.

For the purposes of this Treaty, a nuclear-weapon State is one which has manufactured and exploded a nuclear weapon or other nuclear explosive device prior to 1 January 1967.

4. For those States whose instruments of ratification or accession are deposited after the entry into force of this Treaty, it shall enter into force on the date of the deposit of their instruments of ratification or accession.

Article XI

Depositary

1. The Secretary-General of the United Nations shall be the Depositary of this Treaty and shall receive the instruments of ratification and instruments of accession.

2. The Depositary shall promptly inform all signatory and acceding States of the date of each signature, the date of deposit of each instrument of ratification or of accession and the date of the entry into force of this Treaty and of any amendments thereto, any notice of withdrawal, and the receipt of other notices. He shall also inform the Security Council of the United Nations of any notice of withdrawal.

3. This Treaty shall be registered by the Depositary in accordance with Article 102 of the Charter of the United Nations.

Article XII

Duration and Withdrawal

This Treaty shall be of unlimited duration. In exercising its national sovereignty, each State Party shall have the right to withdraw from the Treaty, if it decides that extraordinary events, related to the provisions of this Treaty, have jeopardized the supreme interests of its country. It shall give notice of such withdrawal to the Depositary three months in advance. Such notice shall include a statement of the extraordinary events it regards as having jeopardized its supreme interests.

Article XIII

Official Languages

This Treaty, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send duly certified copies thereof to the Governments of the signatory and acceding States.

Article XIV

Signature

In witness whereof, the undersigned, duly authorized thereto, have signed this Treaty.

PROTOCOL I

The Organization

A. General Provisions

1. The Organization shall oversee the overall function of the Treaty and its verification arrangements and shall consist of the organs specified in Article III.

2. All States Parties to the Treaty shall be members of the Organization.

3. The cost of the Organization shall be borne by the States Parties in accordance with the United Nations scale of assessment.

B. The Conference of the States Parties

1. Each State Party shall have one representative in the Conference of the States Parties, who may be accompanied by alternates and advisers.

2. The Conference of the States Parties shall meet annually unless it decides otherwise.

3. The Conference of the States Parties shall take decisions on questions of procedure, including decisions to convene special sessions of the Conference, by a simple majority of the members present and voting. Decisions on matters of substance should be taken as far as possible by consensus. If consensus is not attainable when an issue comes up for decision, the Chairman shall defer any vote for 24 hours and during this period of deferment shall make every effort to facilitate achievement of consensus, and shall report to the Conference prior to the end of the period. If there is no possibility of achieving consensus at the end of 24 hours, the Conference shall take the decision by a two-thirds majority of members present and voting unless otherwise specified in the Treaty. When the issue arises as to whether or not the question is one of substance, that question shall be treated as one of substance unless otherwise decided by the Conference by the majority required for decisions on questions of substance.

C. The Executive Council

1. The Executive Council is responsible to the Conference of the States Parties. It shall carry out the powers and functions entrusted to it under the Treaty and its Protocols, as well as such functions delegated to it by the Conference of the States Parties. In so doing, it shall act in conformity with the recommendations, decisions and guidelines of the Conference of the States Parties and assure their continuous and proper implementation.

2. The Executive Council shall keep the overall operation of the Treaty and its verification arrangements under review to promote the effective implementation of and compliance with the Treaty. It shall facilitate

consultation among States Parties to resolve issues related to the Treaty, in particular to its verification, and supervise the operation of the Technical Secretariat.

3. The Executive Council shall decide on proposals for amendments to Protocols II and III of this Treaty on matters concerning the equipment and technical procedures to be used to verify compliance with the Treaty following proposals from a State Party or from the Technical Secretariat. An Advisory Board of international experts shall be established to provide scientific expertise on verification measures and to assist the Executive Council in assessing the value of new methods to be considered for the verification of this Treaty.

4. The Executive Council shall supervise the operation of the Technical Secretariat and therewith in particular:

- appoint its Director-General;

- decide on its annual budget;

- receive and review its reports submitted every three months and annually.

5. The Executive Council shall facilitate consultations among States Parties to resolve issues related to the Treaty, in particular to its verification. The functions of the Executive Council with regard to on-site inspections are laid down in Article V and Protocol III.

6. The Executive Council shall meet annually. Between sessions it shall meet as often as required to fulfil its functions. It shall elect its own Chairman.

7. Decisions by the Executive Council on (to be specified) are taken by simple majority.

D. The Technical Secretariat

1. A Technical Secretariat shall be established to assist States Parties, the Conference of the States Parties and the Executive Council on issues of verification. The Technical Secretariat shall, inter alia,

- coordinate international cooperative arrangements to exchange seismological data, data on radionuclides in the atmosphere and other data relevant to the monitoring of the Treaty;

- conduct on-site monitoring and inspection at the invitation of a State Party or at the request of the Executive Council;

- cooperate with the National Authorities of the States Parties to resolve uncertainties regarding compliance with the Treaty.

2. The Technical Secretariat shall coordinate the operation of the global seismological network and in particular

- operate the International Data Centre to compile, analyse and report on seismic data;
- supervise the operation of participating seismological stations and their reporting;
- provide technical assistance in the installation and operation of seismological stations;
- compile and assess results and experience of the operation of the seismological network.

3. The Technical Secretariat shall coordinate the operation of the network for global surveillance of radionuclides in the atmosphere and in particular

- operate the International Data Centre to compile, analyse and report data on radionuclides in the atmosphere;
- supervise stations which are monitoring radionuclides in the atmosphere;
- provide techical assistance in the installation and operation of monitoring stations;
- compile and assess results and experiences of the operation of a network for global surveillance of radionuclides in the atmosphere.

4. Upon request,the Technical Secretariat shall assist States Parties in using satellite observations to clarify seismic and other events in relation to this Treaty and

- ensure access to relevant, publicly available satellite data;
- process and analyse satellite data to facilitate the interpretation and clarification of seismic events.

The Technical Secretariat shall also compile, analyse and report on hydroacoustic signals in the ocean and other relevant data provided by States Parties to facilitate the verification of this Treaty.

5. The Technical Secretariat shall receive, compile and report to all States Parties any additional information that a State Party may provide to assist in the interpretation of an event which has occurred on its territory.

The Technical Secretariat shall forward requests for information made by any State Party to any other State Party on any event relevant to this Treaty occurring on the territory of the latter State. The Technical Secretariat shall receive, compile and report on any information received in response to such requests.

6. The functions of the Technical Secretariat with regard to on-site inspections are laid down in Article IV and Protocol III.

7. Upon invitation through the Executive Council, the Technical Secretariat shall conduct on-site monitoring of large non-nuclear explosions, exceeding 100 tons TNT equivalent, and report the result of such observations to the States Parties. The Technical Secretariat shall also compile and distribute a monthly list of reported non-nuclear explosions, exceeding 10 tons TNT equivalent.

8. The Technical Secretariat is authorized to propose to the Executive Council amendments of a technical nature to Protocols II and III of this Treaty. The Technical Secretariat is also authorized, in consultation with the National Authorities of States Parties, to make modifications in the Operational Manuals of the verification systems referred to in Protocols II and III. Such modifications shall be reported to the Executive Council.

9. The Technical Secretariat shall comprise a Director-General, appointed by the Executive Council for a period of four years, who shall be its Head and Chief Administrative Officer and such scientific, technical and other personnel as may be required. The Director General may be reappointed for one further term, but not thereafter. Only citizens of States Parties shall serve as Inspectors or as other members of the professional and clerical staff of the Technical Secretariat.

10. The Technical Secretariat shall, on an annual basis, submit its budget proposal to the Executive Council. The Technical Secretariat shall further report to the Executive Council on its activities every three months, and annually.

PROTOCOL II

Global Monitoring System

Part I

International Exchange of Seismological Data

1. Each State Party to the Treaty undertakes to cooperate in good faith in an international exchange of seismological data to assist the States Parties in the verification of the Treaty by providing additional technical information for their national assessment. These international cooperative measures include 50-100 high-quality designated seismological stations, including seismic arrays in participating countries and in other territories, efficient systems for the exchange of seismological data, and an International Data Centre. The operation of the system shall be coordinated by the Technical Secretariat and guided by the Operational Manual for International Exchange of Seismological Data.

2. Each State Party shall have the right to participate in the international exchange of seismological data by contributing data from one or more designated seismological stations and to receive all the seismological data made available through the international exchange. Each State Party should cooperate with the international exchange. Each State Party should cooperate with the international system through its National Authority. To ensure that seismological stations with the necessary geographical coverage will be incorporated in the exchange, the States listed in Table I have agreed to provide data from the stations specified in the same Table.

Each State Party participating in the international data exchange shall provide geographical coordinates, a description of the seismic noise and the geological site, and a description of the instrumentation of each designated station. Any changes in these data shall be reported immediately. Data on designated stations are collected, compiled and regularly reported to the States Parties by the Technical Secretariat.

In consultation with the States Parties, the Technical Secretariat shall identify the need for data from additional stations or from high-quality stations and how such needs should be met. The Technical Secretariat shall also provide technical assistance to establish, operate and maintain new seismic high-quality stations in regions of the world where there is a lack of such stations.

3. The seismological stations designated for participation in the international exchange shall have the basic equipment specified in the Operational Manual. These stations shall be operated, calibrated and maintained as specified in the Manual. Information on the operation and the calibration of the stations shall be sent regularly to the Technical Secretariat.

4. Seismological data from each designated station shall be reported routinely and on a regular basis through the appropriate National Authority. The seismological data to be reported, the reporting format and the time schedule are specified in the Operational Manual.

In addition to routinely submitted data, each State Party participating in the international data exchange shall provide any relevant seismological data from its designated stations which are requested through the International Data Centre by any other State Party. The procedures for making such requests and the format and time schedule for responding to them are laid down in the Operational Manual.

5. An International Data Centre shall be established by the Technical Secretariat. Easy and free access for representatives of all Parties to the Treaty shall be granted to all facilities of the International Data Centre.

6. The International Data Centre shall routinely receive all seismological data contributed to the international exchange by its participants, process these data, without interpreting them, distribute such data to all

participants within one week, store all data contributed by participants as well as the results of the processing at the Centre. The procedures to be used at the International Data Centre are laid down in the Operational Manual. The International Data Centre shall further coordinate requests for additional seismological data from one State Party to another Party and circulate data obtained as a result of such requests.

7. Each State Party is encouraged to assist in the assessment of the nature of the seismic events located by the International Data Centre by contributing any additional information available about events located in its own territory.

Table 1

State	Station
.....	.....
.....	.....
.....	.....

Part II

Surveillance of Radionuclides in the Atmosphere

1. Each State Party undertakes to cooperate in good faith in an international network for surveillance of radionuclides in the atmosphere. These international cooperative measures include 50-100 designated sampling stations for radionuclides in the atmosphere in participating States and in other territories, national or regional analysis laboratories, systems for the evaluation and exchange of these measurements, and the International Data Centre established for this purpose. The operation of the System shall be coordinated by the Technical Secretariat and guided by the Operational Manual for the Surveillance of Radionuclides in the Atmosphere.

2. Each State Party shall have the right to participate in the international surveillance of radionuclides in the atmosphere by contributing measurements of samples from one or more designated stations and to receive all the information made available through the international exchange. To ensure the necessary geographical coverage of sampling stations for radionuclides in the atmosphere, the States listed in Table 2 have agreed to provide measurements of samples from the stations specified in this Table.

Each State Party participating in the international surveillance shall provide geographical coordinates and a description of the instrumentation of each designated station as well as of the techniques applied in the laboratories carrying out the analysis. Any changes in these data shall be reported immediately. Data on designated stations and laboratories are collected, compiled and regularly reported by the Technical Secretariat.

3. The sampling stations and the analysis laboratories for radionuclides in the atmosphere designated for participation in the international exchange shall have the basic equipment specified in the Operational Manual for the Surveillance of Radionuclides in the Atmosphere. These stations and laboratories shall be operated and maintained as specified in this Manual. Information about the operation and maintenance of the stations and laboratories shall be sent to the Technical Secretariat on a regular basis.

4. Measurements of radionuclides in the atmosphere from each designated station shall be reported routinely and on a regular basis through the appropriate National Authority. The measurements of samples to be reported, the reporting format and time schedule are specified in the Operational Manual. A State Party shall cooperate in good faith with the International Data Centre to clarify any technical question regarding data reported.

In addition to routinely submitted measurements, each State Party participating in the international measurements exchange shall provide any relevant measurements from its designated stations requested through the International Data Centre by any State Party. The procedures for making such requests and the format and time schedule for responding are laid down in the Operational Manual.

5. An International Data Centre for the exchange of measurements on radionuclides in the atmosphere shall be established by the Technical Secretariat. Easy and free access for representatives of all States Parties shall be granted to all facilities of the International Data Centre.

The International Data Centre shall receive all measurements on radionuclides in the atmosphere contributed to the international exchange by its participants and routinely analyse and process these measurements according to established procedures. For observed release of radionuclides in the atmosphere, the time and location of the source shall be evaluated. In this analysis, relevant wind trajectories obtained from meteorological data shall be used. The results of the analysis shall be distributed to all participants within one week, and the records thereof be kept at the Centre. The procedures to be used in the analysis at the International Data Centre are laid down in the Operational Manual.

The International Data Centre shall also coordinate requests for additional measurements from one State Party to another and circulate the information obtained as a result of such requests.

Table 2

State	Station
.....	.....
.....	.....
.....	.....

Part III

Use of Satellite Data

1. In order to assist in the interpretation of seismic and other events relevant to this Treaty and to facilitate the use by States Parties of satellite images, the Technical Secretariat shall ensure access to relevant data obtained from available satellite systems.

2. The Technical Secretariat shall assist States Parties in utilizing satellite data by establishing and operating a Satellite Image Processing Centre. This Centre shall have the capability to store available satellite data and to process such data according to specified procedures at the request of any State Party. The operation of the Satellite Image Processing Centre shall be guided by the Operational Manual for Satellite Data Processing.

3. Each State party operating an unclassified satellite system which provides images with a coverage and resolution relevant to this Treaty undertakes to make such image data available on terms to be agreed with the Technical Secretariat.

Part IV

Other Methods

1. The Technical Secretariat shall facilitate cooperation among States Parties in using additional means of verification which any State Party may find useful. The Technical Secretariat shall receive, compile and circulate any data relevant to the verification of this Treaty which any State Party makes available.

2. The Technical Secretariat shall, in consultation with the States Parties, provide technical assistance to establish, operate and maintain such additional means of verification.

3. Additional means of verification of compliance with this Treaty might include hydroacoustic measurements in the sea and acoustic and ionospheric measurements in the atmosphere.

PROTOCOL III

Procedures for On-Site Inspections and Monitoring

Part I

Procedures for International On-Site Inspections

1. The basic rules for verification through on-site inspection are laid down in Article IV of this Treaty.

2. The purpose of an international on-site inspection is purely fact-finding, and the Team of International Inspectors (hereinafter referred to as the Inspection Team) dispatched by the Technical Secretariat shall not make any assessment as to the nature of the event inspected. The Inspection Team shall present a factual report of the observations made during the inspection. As far as possible, this report shall represent the consensus view of the participating experts. If and where consensus cannot be achieved, the report shall reflect the views of all the participating inspectors.

3. The Inspection Team shall begin its inspection in the specified area to be inspected not later than seven days after it receives a request for inspection from the Executive Council. This area must be continuous and not exceed 1,000 km^2 or a distance of 50 km in any direction. An inspection may last for a maximum time period of seven days after the arrival of the Inspection Team at the point of entry in the territory of the State Party to be inspected.

4. During an international on-site inspection, the Inspection Team shall be entitled to

- conduct visual inspections of the area from the air and on the ground;

- conduct inspections of the area using infrared means of observation from the air and on the ground;

- take photographs in the visual and infrared parts of the spectrum from the air and on the ground;

- measure radioactive radiation in the atmosphere above the area, at ground level and in water;

- conduct temporary seismological measurements in the area.

5. The Director-General of the Technical Secretariat shall notify the inspected State Party not less than [12] hours prior to the planned arrival of the Inspection Team at the point of entry. Simultaneously the members of the Executive Council shall be informed about the request.

6. An international on-site inspection shall be carried out by the personnel and experts of the Technical Secretariat. The rules and detailed procedures for such on-site inspections are laid down in the Manual for International On-Site Inspections. The Inspectors shall be selected taking into account available expertise and must not include any national of the requesting State Party. The Inspection Team shall be headed by an officer from the Technical

Secretariat and contain ..... additional Inspectors. The Inspection Team shall further comprise the necessary technicians, interpreters and secretaries provided by the Technical Secretariat. The total number of an Inspection Team shall not exceed .....

At all times while the inspecting personnel are in the territory of the State Party to be inspected, their persons, property, personal baggage, archives and documents as well as their temporary official and living quarters shall be accorded the same privileges and immunities as provided in Articles 22, 23, 24, 29, 30, 31, 34, and 36 of the Vienna Convention on Diplomatic Relations to the persons, property, personal baggage, archives and documents of diplomatic agents as well as to the premises of diplomatic missions and private residences of diplomatic agents.

Without prejudice to their privileges and immunities, it shall be the duty of the inspecting personnel to respect the laws and regulations of the State in the territory of which the inspection is to be carried out, in so far as such laws and regulations do not impede in any way whatsoever the proper exercising of the rights and functions provided for by the Treaty and this Protocol.

Part II

Procedures for On-Site Monitoring of Large Non-Nuclear Explosions

1. In order to avoid misinterpretation of large non-nuclear explosions, the Party conducting such an explosion must follow specified rules and procedures. For an explosion with a yield exceeding 100 tons TNT equivalent or any group of explosions with an aggregate yield exceeding the same limit, the State Party conducting such an explosion shall notify the Technical Secretariat not later than 60 days prior to the event. This notification shall include

- the time, location, purpose and yield of the explosion;
- a full description of the event, including a timetable for loading the charge;
- any other relevant information that a State Party wishes to submit.

2. A State Party conducting an explosion with a yield exceeding 10 tons but not exceeding 100 tons of TNT equivalent shall provide the Technical Secretariat with information on such an event not later than seven days after the explosion.

3. Personnel from the Technical Secretariat shall monitor on-site the preparations for, and the detonation of, any non-nuclear explosion with a yield exceeding 100 tons TNT equivalent.

Based on the information provided by the State Party conducting the explosion, the Director-General of the Technical Secretariat shall decide from what date observers shall follow the preparation work. The on-site observation shall include the conduct of the explosion and observation of its result. The detailed rules and procedures are laid down in the Operational Manual for On-Site Monitoring of Large Non-Nuclear Explosions.

4. The personnel conducting the on-site monitoring shall be allowed to follow the preparation of the explosion, including the loading of the charge or charges. They should further be allowed to take pictures and to make measurements of radioactive radiation in the air and in water in the vicinity of the event, prior to and after the explosion.

5. The Technical Secretariat shall establish a factual report of each large non-nuclear explosion monitored and submit the report to all States Parties and to the Executive Council.

6. On-site monitoring of a large non-nuclear explosion shall be carried out by the Technical Secretariat using its own personnel and experts provided by States Parties, at the request of the Director-General of the Technical Secretariat. The observers shall be selected taking into account available expertise and must not include any national of the requesting State Party. The Inspection Team shall be headed by an officer from the Technical Secretariat and contain ..... additional observers. The Inspection Team shall further compromise the necessary technicians, interpreters and secretaries provided by the Technical Secretariat in accordance with the need in each particular case. The total number of such support personnel shall not exceed .....

At all times while the inspecting personnel are in the territory of the State Party to be inspected or in a territory under the jurisdiction or control of that State Party, their persons, property, personal baggage, archives and documents as well as their temporary official and living quarters shall be accorded the same privileges and immunities as provided in Articles 22, 23, 24, 29, 30, 31, 34 and 36 of the Vienna Convention on Diplomatic Relations to the persons, property, personal baggage, archives and documents of diplomatic agents as well as to the premises of diplomatic missions and private residences of diplomatic agents.

Without prejudice to their privileges and immunities, it shall be the duty of the inspecting personnel to respect the laws and regulations of the State in whose territory the inspection is to be carried out, in so far as such laws and regulations do not impede in any way whatsoever the proper exercising of the rights and functions provided for by the Treaty and this Protocol.

OPERATIONAL MANUALS

In addition to the Treaty and its Protocols the following Operational Manuals should be established to guide the operation of the various components of the verification system:

- Operational Manual for International Exchange of Seismological Data;
- Operational Manual for the Surveillance of Radionuclides in the Atmosphere;
- Operational Manual for Satellite Data Processing;
- Operational Manual for International On-site Inspections;
- Operational Manual for On-Site Observations of Large Non-Nuclear Explosions.

These manuals are not an integral part of the Treaty and can be changed by the Technical Secretariat in consultation with States Parties. The Executive Council shall be informed of changes in the Operational Manuals.

CONFERENCE ON DISARMAMENT

CD/1089*
CD/NTB/WP.14
31 July 1991

Original: ENGLISH

LETTER DATED 9 JULY 1991 FROM THE HEAD OF THE SWEDISH DELEGATION ADDRESSED TO THE SECRETARY-GENERAL OF THE CONFERENCE ON DISARMAMENT TRANSMITTING THE TEXT OF A DRAFT COMPREHENSIVE TEST-BAN TREATY AND ITS ANNEXED PROTOCOLS

I have the honour to send you enclosed a draft CTB Treaty and its annexed protocols which will be introduced by the Delegation of Sweden on 25 July 1991. It will also be presented in the Ad Hoc Committee on a Nuclear Test Ban on that same day.

I should be grateful if it could be issued as an official document of the Conference and translated into all the official languages. It would be appreciated if the document could be available in all the official languages, dated on 25 July 1991 and numbered both as a CD document and as a Working Paper in the Ad Hoc Committee.

(Signed) Carl-Magnus Hyltenius
Ambassador
Head of the Swedish Delegation
to the Conference on Disarmament

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* Re-issued for technical reasons.

GE.91-62113/3475B

DRAFT COMPREHENSIVE NUCLEAR TEST-BAN TREATY

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DRAFT COMPREHENSIVE NUCLEAR TEST-BAN TREATY

The States Parties to this Treaty, hereinafter referred to as the "States Parties",

Convinced of the urgent need for an end to the nuclear arms race and the ultimate elimination of nuclear weapons.

Recalling the determination expressed by the Parties in the Preamble to the 1963 Treaty Banning Nuclear Weapons Tests in the Atmosphere, in Outer Space and Under Water to seek to achieve the discontinuance of all test explosions of nuclear weapons for all time, and to continue negotiations to this end,

Declaring their intention to achieve at the earliest possible date the cessation of the nuclear arms race and to undertake effective measures towards nuclear disarmament,

Urging the cooperation of all States in the attainment of this objective,

Convinced also that an end to nuclear testing by all States in all environments for all time is of fundamental importance to prevent the qualitative improvement and development of nuclear weapons and their further proliferation,

Have agreed as follows:

Article I

Basic Obligations

1. Each State Party undertakes to prohibit, to prevent, and not to carry out, in any environment, any test explosion of a nuclear explosive device.

2. Each State Party undertakes not to detonate anywhere any nuclear explosive device for peaceful purposes unless the States Parties have agreed on procedures for and controls of such nuclear explosions.

3. Each State Party undertakes, furthermore, to refrain from causing, encouraging, assisting, permitting or in any way participating in the carrying out anywhere of any nuclear explosion referred to in paragraphs 1 and 2 of this Article.

Article II

The Organization

1. The States Parties to the Treaty hereby establish a body hereinafter referred to as the "Organization" to achieve the objectives of the Treaty and to ensure the implementation of its provisions, including those for international verification of compliance with it, and to provide a forum for consultation and cooperation among the States Parties.

2. All States Parties shall be members of the Organization.

3. The seat of the Headquarters of the Organization shall be ...

4. The organs of the Organization shall be the Conference of the States Parties, the Executive Council and the Technical Secretariat.

5. The Conference of the State Parties is composed of all States Parties. It is the principal organ and oversees the implementation of, and the compliance with, the Treaty. It shall oversee the activities of the Executive Council and the Technical Secretariat.

6. The Executive Council, which is the executive organ of the Conference of the States Parties, shall in particular

- promote the effective implementation of, and compliance with, the Treaty;

- facilitate consultation among States Parties to resolve issues related to the Treaty, in particular to verification of compliance with its provisions;

- supervise the operation of the Technical Secretariat.

The Executive Council shall comprise twenty-five State Parties serving for a period of two years. The members of the Executive Council shall be elected by the Conference of the States Parties, with due regard given to an equitable political and geographical representation.

7. The Technical Secretariat shall assist States Parties, the Conference of the States Parties, and the Executive Council on issues of verification. It shall be headed by a Director-General. The Secretariat shall, inter alia,

- coordinate international cooperative arrangements to exchange seismological data, data on radionuclides in the atmosphere and other data relevant to the monitoring of compliance with the Treaty;

- conduct on-site monitoring and inspection at the invitation of a State Party, or at the request of the Executive Council;

- cooperate with the National Authorities of the States Parties to resolve uncertainties that a State Party may have about an event relevant to compliance with the Treaty.

8. The duties, functions and organization of the Conference of the States Parties, the Executive Council and the Technical Secretariat are further outlined in Protocol I.

Article III

National Implementation Measures

1. Each State Party undertakes to take any measures it considers necessary to prohibit and prevent any activity in violation of the provisions of the Treaty anywhere under its jurisdiction or control.

2. Each State Party shall inform the Organization established pursuant to Article II of this Treaty of the legislative and administrative measures taken to implement the Treaty.

3. In order to fulfil its obligations under the Treaty, each State Party shall designate or set up a National Authority and shall so inform the Organization upon entry into force of the Treaty for such a State Party. The National Authority shall serve as the national focal point for liaison with the Organization and with other States Parties.

4. Each State Party undertakes to cooperate in good faith with the Organization in the exercise of the functions of the Organization and, in particular, to provide assistance to the Technical Secretariat, including data reporting on a routine basis and in response to requests, and to provide assistance for on-site inspections, as provided for in this Treaty.

Article IV

Verification

1. Each State Party undertakes to cooperate in good faith to facilitate the verification of compliance with this Treaty to clarify any event which might cause concern to other States Parties to the Treaty through:

- an effective international exchange of seismological data;
- an effective international exchange of measurements on radionuclides in the atmosphere;
- additional relevant techniques as specified in Protocol II.

The arrangements for these international cooperative measures are laid down in Protocol II annexed to this Treaty.

Each State Party undertakes to establish the necessary facilities to participate in these cooperative measures and through its National Authority to establish the necessary communication channels with the Technical Secretariat.

These arrangements shall be operative on the entry into force of this Treaty.

2. Large non-nuclear explosions carried out by a State Party shall be conducted in accordance with provisions laid down in Protocol III.

3. The States Parties undertake to consult one another and to cooperate in good faith for the clarification of all events pertaining to matters relevant to compliance with this Treaty. Upon request from a State Party, the Technical Secretariat shall assist in this cooperation to facilitate the clarification of events observed. In accordance with this provision, each State Party undertakes:

- to provide the Technical Secretariat with any additional information it possesses that might assist in the interpretation of an event that may be of relevance to the Treaty which has occurred on its territory, or under its jurisdiction or control;

- to provide any relevant information, through the Technical Secretariat, in response to a request, by any other State Party.

4. Each State Party may use national technical means of verification at its disposal in a manner consistent with generally recognized principles of international law to verify compliance with the Treaty. Each State Party undertakes not to interfere with national technical means of verification of any other State Party.

5. If a State Party is unable to clarify the nature of an event through the measures specified in paragraphs 1 through 5 of this Article, each State Party is entitled to request, through the Executive Council, an on-site inspection on the territory of any other State Party for the purpose of ascertaining whether or not a specified event was a nuclear explosion.

6. The requesting State Party shall state the reasons for its request, including the evidence available. The requested State Party is under the obligation to comply with a request for an inspection. Such an inspection shall be conducted by the Technical Secretariat, and the result shall be reported to the Executive Council and all States Parties. Procedures for such inspections, including the rights and functions of the inspecting personnel, are laid down in Protocol III.

7. An on-site inspection carried out by the Technical Secretariat may also follow an invitation to the Executive Council by the State Party on whose territory the event has occurred.

Article V

Non-compliance

1. If a State Party considers that another State Party has failed to fulfil its obligations to cooperate in good faith to facilitate the verification of this Treaty, it may raise the issue in the Executive Council. If the matter cannot be resolved in the Executive Council, it may be taken up in the Conference of the States Parties. The Conference of the States Parties shall take the necessary measures to ensure compliance with the Treaty and to redress and remedy any situation which contravenes the provisions of the Treaty.

2. In cases where a State Party fails to fulfil a request to take measures to redress a situation which gives rise to problems with regard to its compliance with the Treaty, the Conference of the States Parties may request that the State Party's rights and privileges under the Treaty be suspended until it undertakes the necessary action to conform with its obligations under the Treaty.

3. Any State Party which finds that any other State Party is acting in breach of obligations deriving from the provisions of the Treaty, may lodge a complaint with the Secretary-General of the United Nations. Such a complaint shall include all possible evidence confirming its validity, as well as a request for its consideration.

4. Each State Party undertakes to cooperate in good faith in carrying out any investigation which the Security Council may initiate in accordance with the provisions of the Charter of the United Nations on the basis of the complaint received by the Council.

5. The Secretary-General shall inform the States Parties of the results of the investigation. He shall further inform the Security Council of any indication that a State Party may have acted in breach of obligations under the Treaty and may request the Council to decide on measures necessary to ensure compliance with the Treaty.

Article VI

Privileges and Immunities

1. The States Parties to this Treaty shall grant privileges and immunities to the representatives of States Parties and the members of delegations to the Conference of the States Parties, the members of the Executive Council, the Director-General and the personnel of the Technical Secretariat in accordance with the Vienna Convention on Diplomatic Relations of 18 April 1961 in order to enable them to carry out the functions entrusted to them under this Treaty.

2. Provisions regarding privileges and immunities in connection with on-site inspections are contained in Protocol III.

3. The State Party in whose territory the Headquarters of the Organization is located shall, as soon as possible, conclude with the Organization a Headquarters Agreement covering privileges, exemptions and immunities.

Article VII

Annexes

The Protocols I, II and III to this Treaty constitute integral parts of the Treaty.

Article VIII

Amendments

1. At any time after the entry into force of this Treaty, any State Party may propose amendments to the Treaty or to any annexed Protocol. Any proposal for an amendment shall be communicated to the Depositary, who shall circulate it to all States Parties and seek their views on whether a conference should be convened to consider the proposal. If a majority, that shall not be less than twenty, of the States Parties so agree, the Depositary shall promptly convene a conference to which all States Parties shall be invited. The Conference may adopt amendments proposed, if a majority of the States Parties present and voting, including the nuclear-weapon States, so agree. Amendments shall enter into force for each Party accepting them upon their adoption by the Conference and thereafter for each remaining Party on the date of acceptance of the amendments by such a Party.

2. Proposals for amendments of provisions of a technical nature to be specified in Protocols I, II and III will be subject to a simplified amendment procedure conducted and decided by the Executive Council.

Article IX

Review of the Treaty

Five years after the entry into force of this Treaty, or earlier if it is requested by a majority of Parties to the Treaty by submitting a proposal to this effect to the Depositary, a conference of States Parties to the Treaty shall be held at ....., to review the operation of the Treaty, with a view to assuring that the purposes of the preamble and the provisions of the Treaty are being realized. Such review shall take into account any new scientific and technological developments relevant to the Treaty.

Article X

Entry into force

1. This Treaty shall be open to all States for signature. Any State which does not sign this Treaty before its entry into force in accordance with this Article may accede to it at any time.

2. This Treaty shall be subject to ratification by Signatory States.

3. This Treaty shall enter into force upon the deposit of instruments of ratification by forty Governments, including the nuclear-weapon States. For the purposes of this Treaty, a nuclear-weapon State is one which has manufactured and exploded a nuclear weapon or other nuclear explosive device prior to 1 January 1967.

4. For those States whose instruments of ratification or accession are deposited after the entry into force of this Treaty, it shall enter into force on the date of the deposit of their instruments of ratification or accession.

Article XI

Depositary

1. The Secretary-General of the United Nations shall be the Depositary of this Treaty and shall receive the instruments of ratification and instruments of accession.

2. The Depositary shall promptly inform all signatory and acceding States of the date of each signature, the date of deposit of each instrument of ratification or of accession and the date of the entry into force of this Treaty and of any amendments thereto, any notice of withdrawal, and the receipt of other notices. He shall also inform the Security Council of the United Nations of any notice of withdrawal.

3. This Treaty shall be registered by the Depositary in accordance with Article 102 of the Charter of the United Nations.

Article XII

Duration and Withdrawal

This Treaty shall be of unlimited duration. In exercising its national sovereignty, each State Party shall have the right to withdraw from the Treaty, if it decides that extraordinary events, related to the provisions of this Treaty, have jeopardized the supreme interests of its country. It shall give notice of such withdrawal to the Depositary three months in advance. Such notice shall include a statement of the extraordinary events it regards as having jeopardized its supreme interests.

Article XIII

Official Languages

This Treaty, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send duly certified copies thereof to the Governments of the signatory and acceding States.

Article XIV

Signature

In witness whereof, the undersigned, duly authorized thereto, have signed this Treaty.

PROTOCOL I

The Organization

A. General Provisions

1. The Organization shall oversee the overall function of the Treaty and its verification arrangements and shall consist of the organs specified in Article III.

2. All States Parties to the Treaty shall be members of the Organization.

3. The cost of the Organization shall be borne by the States Parties in accordance with the United Nations scale of assessment.

B. The Conference of the States Parties

1. Each State Party shall have one representative in the Conference of the States Parties, who may be accompanied by alternates and advisers.

2. The Conference of the States Parties shall meet annually unless it decides otherwise.

3. The Conference of the States Parties shall take decisions on questions of procedure, including decisions to convene special sessions of the Conference, by a simple majority of the members present and voting. Decisions on matters of substance should be taken as far as possible by consensus. If consensus is not attainable when an issue comes up for decision, the Chairman shall defer any vote for 24 hours and during this period of deferment shall make every effort to facilitate achievement of consensus, and shall report to the Conference prior to the end of the period. If there is no possibility of achieving consensus at the end of 24 hours, the Conference shall take the decision by a two-thirds majority of members present and voting unless otherwise specified in the Treaty. When the issue arises as to whether or not the question is one of substance, that question shall be treated as one of substance unless otherwise decided by the Conference by the majority required for decisions on questions of substance.

C. The Executive Council

1. The Executive Council is responsible to the Conference of the States Parties. It shall carry out the powers and functions entrusted to it under the Treaty and its Protocols, as well as such functions delegated to it by the Conference of the States Parties. In so doing, it shall act in conformity with the recommendations, decisions and guidelines of the Conference of the States Parties and assure their continuous and proper implementation.

2. The Executive Council shall keep the overall operation of the Treaty and its verification arrangements under review to promote the effective implementation of and compliance with the Treaty. It shall facilitate

consultation among States Parties to resolve issues related to the Treaty, in particular to its verification, and supervise the operation of the Technical Secretariat.

3. The Executive Council shall decide on proposals for amendments to Protocols II and III of this Treaty on matters concerning the equipment and technical procedures to be used to verify compliance with the Treaty following proposals from a State Party or from the Technical Secretariat.

4. An Advisory Board of international experts shall be established to provide scientific expertise on verification measures and to assist the Executive Council in assessing the value of new methods to be considered for the verification of this Treaty.

5. The Executive Council shall supervise the operation of the Technical Secretariat and therewith in particular:

- appoint its Director-General;
- decide on its annual budget;
- receive and review its reports submitted every three months and annually.

6. The Executive Council shall facilitate consultations among States Parties to resolve issues related to the Treaty, in particular to its verification. The functions of the Executive Council with regard to on-site inspections are laid down in Article IV and Protocol III.

7. The Executive Council shall meet annually. Between sessions it shall meet as often as required to fulfil its functions. It shall elect its own Chairman.

8. Decisions by the Executive Council on (to be specified) are taken by simple majority.

D. The Technical Secretariat

1. A Technical Secretariat shall be established to assist States Parties, the Conference of the States Parties and the Executive Council on issues of verification. The Technical Secretariat shall, inter alia,

- coordinate international cooperative arrangements to exchange seismological data, data on radionuclides in the atmosphere and other data relevant to the monitoring of the Treaty;
- conduct on-site monitoring and inspection at the invitation of a State Party or at the request of the Executive Council;
- cooperate with the National Authorities of the States Parties to resolve uncertainties regarding compliance with the Treaty.

2. The Technical Secretariat shall coordinate the operation of the global seismological network and in particular

- operate the International Data Centre to compile, analyse and report on seismic data;

- supervise the operation of participating seismological stations and their reporting;

- provide technical assistance in the installation and operation of seismological stations;

- compile and assess results and experience of the operation of the seismological network.

3. The Technical Secretariat shall coordinate the operation of the network for global surveillance of radionuclides in the atmosphere and in particular

- operate the International Data Centre to compile, analyse and report data on radionuclides in the atmosphere;

- supervise stations which are monitoring radionuclides in the atmosphere;

- provide techical assistance in the installation and operation of monitoring stations;

- compile and assess results and experiences of the operation of a network for global surveillance of radionuclides in the atmosphere.

4. Upon request,the Technical Secretariat shall assist States Parties in using satellite observations to clarify seismic and other events in relation to this Treaty and

- ensure access to relevant, publicly available satellite data;

- process and analyse satellite data to facilitate the interpretation and clarification of seismic events.

The Technical Secretariat shall also compile, analyse and report on hydroacoustic signals in the ocean and other relevant data provided by States Parties to facilitate the verification of this Treaty.

5. The Technical Secretariat shall receive, compile and report to all States Parties any additional information that a State Party may provide to assist in the interpretation of an event which has occurred on its territory.

The Technical Secretariat shall forward requests for information made by any State Party to any other State Party on any event relevant to this Treaty occurring on the territory of the latter State. The Technical Secretariat shall receive, compile and report on any information received in response to such requests.

6. The functions of the Technical Secretariat with regard to on-site inspections are laid down in Article IV and Protocol III.

7. Upon invitation through the Executive Council, the Technical Secretariat shall conduct on-site monitoring of large non-nuclear explosions, exceeding 100 tons TNT equivalent, and report the result of such observations to the States Parties. The Technical Secretariat shall also compile and distribute a monthly list of reported non-nuclear explosions, exceeding 10 tons TNT equivalent.

8. The Technical Secretariat is authorized to propose to the Executive Council amendments of provisions of a technical nature laid down in Protocols II and III of this Treaty. The Technical Secretariat is also authorized, in consultation with the National Authorities of States Parties, to make modifications in the Operational Manuals of the verification systems referred to in Protocols II and III. Such modifications shall be reported to the Executive Council.

9. The Technical Secretariat shall comprise a Director-General, appointed by the Executive Council for a period of four years, who shall be its Head and Chief Administrative Officer and such scientific, technical and other personnel as may be required. The Director-General may be reappointed for one further term, but not thereafter. Only citizens of States Parties shall serve as Inspectors or as other members of the professional and clerical staff of the Technical Secretariat.

10. The Technical Secretariat shall, on an annual basis, submit its budget proposal to the Executive Council. The Technical Secretariat shall further report to the Executive Council on its activities every three months, and annually.

PROTOCOL II

Global Monitoring System

Part I

International Exchange of Seismological Data

1. Each State Party to the Treaty undertakes to cooperate in good faith in an international exchange of seismological data to assist the States Parties in the verification of the Treaty by providing additional technical information for their national assessment. These international cooperative measures include 50-100 high-quality designated seismological stations, including seismic arrays in participating countries and in other territories, efficient systems for the exchange of seismological data, and an International Data Centre. The operation of the system shall be coordinated by the Technical Secretariat and guided by the Operational Manual for International Exchange of Seismological Data.

2. Each State Party shall have the right to participate in the international exchange of seismological data by contributing data from one or more designated seismological stations and to receive all the seismological data made available through the international exchange. Each State Party should cooperate with the international exchange. Each State Party should cooperate with the international system through its National Authority. To ensure that seismological stations with the necessary geographical coverage will be incorporated in the exchange, the States listed in Table I have agreed to provide data from the stations specified in the same Table.

Each State Party participating in the international data exchange shall provide geographical coordinates, a description of the seismic noise and the geological site, and a description of the instrumentation of each designated station. Any changes in these data shall be reported immediately. Data on designated stations are collected, compiled and regularly reported to the States Parties by the Technical Secretariat.

In consultation with the States Parties, the Technical Secretariat shall identify the need for data from additional stations or from high-quality stations and how such needs should be met. The Technical Secretariat shall also provide technical assistance to establish, operate and maintain new seismic high-quality stations in regions of the world where there is a lack of such stations.

3. The seismological stations designated for participation in the international exchange shall have the basic equipment specified in the Operational Manual. These stations shall be operated, calibrated and maintained as specified in the Manual. Information on the operation and the calibration of the stations shall be sent regularly to the Technical Secretariat.

4. Seismological data from each designated station shall be reported routinely and on a regular basis through the appropriate National Authority. The seismological data to be reported, the reporting format and the time schedule are specified in the Operational Manual.

In addition to routinely submitted data, each State Party participating in the international data exchange shall provide any relevant seismological data from its designated stations which are requested through the International Data Centre by any other State Party. The procedures for making such requests and the format and time schedule for responding to them are laid down in the Operational Manual.

5. An International Data Centre shall be established by the Technical Secretariat. Easy and free access for representatives of all Parties to the Treaty shall be granted to all facilities of the International Data Centre.

6. The International Data Centre shall routinely receive all seismological data contributed to the international exchange by its participants, process these data, without interpreting them, distribute such data to all participants within one week, store all data contributed by participants as well as the results of the processing at the Centre. The procedures to be used at the International Data Centre are laid down in the Operational Manual. The International Data Centre shall further coordinate requests for additional seismological data from one State Party to another Party and circulate data obtained as a result of such requests.

7. Each State Party is encouraged to assist in the assessment of the nature of the seismic events located by the International Data Centre by contributing any additional information available about events located in its own territory.

Table 1

State	Station
.....	.....
.....	.....
.....	.....

Part II

Surveillance of Radionuclides in the Atmosphere

1. Each State Party undertakes to cooperate in good faith in an international network for surveillance of radionuclides in the atmosphere. These international cooperative measures include 50-100 designated sampling stations for radionuclides in the atmosphere in participating States and in other territories, national or regional analysis laboratories, systems for the evaluation and exchange of these measurements, and the International Data Centre established for this purpose. The operation of the System shall be coordinated by the Technical Secretariat and guided by the Operational Manual for the Surveillance of Radionuclides in the Atmosphere.

2. Each State Party shall have the right to participate in the international surveillance of radionuclides in the atmosphere by contributing measurements of samples from one or more designated stations and to receive all the information made available through the international exchange. To ensure the necessary geographical coverage of sampling stations for radionuclides in the atmosphere, the States listed in Table 2 have agreed to provide measurements of samples from the stations specified in this Table.

Each State Party participating in the international surveillance shall provide geographical coordinates and a description of the instrumentation of each designated station as well as of the techniques applied in the laboratories carrying out the analysis. Any changes in these data shall be reported immediately. Data on designated stations and laboratories are collected, compiled and regularly reported by the Technical Secretariat.

3. The sampling stations and the analysis laboratories for radionuclides in the atmosphere designated for participation in the international exchange shall have the basic equipment specified in the Operational Manual for the Surveillance of Radionuclides in the Atmosphere. These stations and laboratories shall be operated and maintained as specified in this Manual. Information about the operation and maintenance of the stations and laboratories shall be sent to the Technical Secretariat on a regular basis.

4. Measurements of radionuclides in the atmosphere from each designated station shall be reported routinely and on a regular basis through the appropriate National Authority. The measurements of samples to be reported, the reporting format and time schedule are specified in the Operational Manual. A State Party shall cooperate in good faith with the International Data Centre to clarify any technical question regarding data reported.

In addition to routinely submitted measurements, each State Party participating in the international measurements exchange shall provide any relevant measurements from its designated stations requested through the International Data Centre by any State Party. The procedures for making such requests and the format and time schedule for responding are laid down in the Operational Manual.

5. An International Data Centre for the exchange of measurements on radionuclides in the atmosphere shall be established by the Technical Secretariat. Easy and free access for representatives of all States Parties shall be granted to all facilities of the International Data Centre.

The International Data Centre shall receive all measurements on radionuclides in the atmosphere contributed to the international exchange by its participants and routinely analyse and process these measurements according to established procedures. For observed release of radionuclides in the atmosphere, the time and location of the source shall be evaluated. In this analysis, relevant wind trajectories obtained from meteorological data shall be used. The results of the analysis shall be distributed to all participants within one week, and the records thereof be kept at the Centre. The procedures to be used in the analysis at the International Data Centre are laid down in the Operational Manual.

The International Data Centre shall also coordinate requests for additional measurements from one State Party to another and circulate the information obtained as a result of such requests.

Table 2

State	Station
.....	.....
.....	.....
.....	.....

Part III

Use of Satellite Data

1. In order to assist in the interpretation of seismic and other events relevant to this Treaty and to facilitate the use by States Parties of satellite images, the Technical Secretariat shall ensure access to relevant data obtained from available satellite systems.

2. The Technical Secretariat shall assist States Parties in utilizing satellite data by establishing and operating a Satellite Image Processing Centre. This Centre shall have the capability to store available satellite data and to process such data according to specified procedures at the request of any State Party. The operation of the Satellite Image Processing Centre shall be guided by the Operational Manual for Satellite Data Processing.

3. Each State party operating an unclassified satellite system which provides images with a coverage and resolution relevant to this Treaty undertakes to make such image data available on terms to be agreed with the Technical Secretariat.

Part IV

Other Methods

1. The Technical Secretariat shall facilitate cooperation among States Parties in using additional means of verification which any State Party may find useful. The Technical Secretariat shall receive, compile and circulate any data relevant to the verification of this Treaty which any State Party makes available.

2. The Technical Secretariat shall, in consultation with the States Parties, provide technical assistance to establish, operate and maintain such additional means of verification.

3. Additional means of verification of compliance with this Treaty might include hydroacoustic measurements in the sea and acoustic and ionospheric measurements in the atmosphere.

PROTOCOL III

Procedures for On-Site Inspections and Monitoring

Part I

Procedures for On-Site Inspections

1. The basic rules for verification through on-site inspection are laid down in Article IV of this Treaty.

2. The purpose of an international on-site inspection is purely fact-finding, and the Team of International Inspectors (hereinafter referred to as the Inspection Team) dispatched by the Technical Secretariat shall not make any assessment as to the nature of the event inspected. The Inspection Team shall present a factual report of the observations made during the inspection. As far as possible, this report shall represent the consensus view of the participating experts. If and where consensus cannot be achieved, the report shall reflect the views of all the participating inspectors.

3. The Inspection Team shall begin its inspection in the specified area to be inspected not later than seven days after it receives a request for inspection from the Executive Council. This area must be continuous and not exceed 1,000 km^2 or a distance of 50 km in any direction. An inspection may last for a maximum time period of seven days after the arrival of the Inspection Team at the point of entry in the territory of the State Party to be inspected.

4. During an international on-site inspection, the Inspection Team shall be entitled to

- conduct visual inspections of the area from the air and on the ground;
- conduct inspections of the area using infrared means of observation from the air and on the ground;
- take photographs in the visual and infrared parts of the spectrum from the air and on the ground;
- measure radioactive radiation in the atmosphere above the area, at ground level and in water;
- conduct temporary seismological measurements in the area.

5. The Director-General of the Technical Secretariat shall notify the inspected State Party not less than [12] hours prior to the planned arrival of the Inspection Team at the point of entry. Simultaneously the members of the Executive Council shall be informed about the request.

6. An international on-site inspection shall be carried out by the personnel and experts of the Technical Secretariat. The rules and detailed procedures for such on-site inspections are laid down in the Manual for International On-Site Inspections. The Inspectors shall be selected taking into account available expertise and must not include any national of the requesting State Party. The Inspection Team shall be headed by an officer from the Technical Secretariat and contain ..... additional Inspectors. The Inspection Team shall further comprise the necessary technicians, interpreters and secretaries provided by the Technical Secretariat. The total number of an Inspection Team shall not exceed .....

At all times while the inspecting personnel are in the territory of the State Party to be inspected, their persons, property, personal baggage, archives and documents as well as their temporary official and living quarters shall be accorded the same privileges and immunities as provided in Articles 22, 23, 24, 29, 30, 31, 34, and 36 of the Vienna Convention on Diplomatic Relations to the persons, property, personal baggage, archives and documents of diplomatic agents as well as to the premises of diplomatic missions and private residences of diplomatic agents.

Without prejudice to their privileges and immunities, it shall be the duty of the inspecting personnel to respect the laws and regulations of the State in the territory of which the inspection is to be carried out, in so far as such laws and regulations do not impede in any way whatsoever the proper exercising of the rights and functions provided for by the Treaty and this Protocol.

Part II

Procedures for On-Site Monitoring of Large Non-Nuclear Explosions

1. In order to avoid misinterpretation of large non-nuclear explosions, the Party conducting such an explosion must follow specified rules and procedures. For an explosion with a yield exceeding 100 tons TNT equivalent or any group of explosions with an aggregate yield exceeding the same limit, the State Party conducting such an explosion shall notify the Technical Secretariat not later than 60 days prior to the event. This notification shall include

- the time, location, purpose and yield of the explosion;
- a full description of the event, including a timetable for loading the charge;
- any other relevant information that a State Party wishes to submit.

2. A State Party conducting an explosion with a yield exceeding 10 tons but not exceeding 100 tons TNT equivalent shall provide the Technical Secretariat with information on such an event not later than seven days after the explosion.

3. Personnel from the Technical Secretariat shall monitor on-site the preparations for, and the detonation of, any non-nuclear explosion with a yield exceeding 100 tons TNT equivalent.

Based on the information provided by the State Party conducting the explosion, the Director-General of the Technical Secretariat shall decide from what date observers shall follow the preparation work. The on-site observation shall include the conduct of the explosion and observation of its result. The detailed rules and procedures are laid down in the Operational Manual for On-Site Monitoring of Large Non-Nuclear Explosions.

4. The personnel conducting the on-site monitoring shall be allowed to follow the preparation of the explosion, including the loading of the charge or charges. They should further be allowed to take pictures and to make measurements of radioactive radiation in the air and in water in the vicinity of the event, prior to and after the explosion.

5. The Technical Secretariat shall establish a factual report of each large non-nuclear explosion monitored and submit the report to all States Parties and to the Executive Council.

6. On-site monitoring of a large non-nuclear explosion shall be carried out by the Technical Secretariat using its own personnel and experts provided by States Parties, at the request of the Director-General of the Technical Secretariat. The observers shall be selected taking into account available expertise. The Monitoring Team shall be headed by an officer from the Technical Secretariat and contain ..... additional observers. The Monitoring Team shall further compromise the necessary technicians, interpreters and secretaries provided by the Technical Secretariat in accordance with the need in each particular case. The total number of such support personnel shall not exceed .....

At all times while the monitoring personnel are in the territory of the State Party to be inspected or in a territory under the jurisdiction or control of that State Party, their persons, property, personal baggage, archives and documents as well as their temporary official and living quarters shall be accorded the same privileges and immunities as provided in Articles 22, 23, 24, 29, 30, 31, 34 and 36 of the Vienna Convention on Diplomatic Relations to the persons, property, personal baggage, archives and documents of diplomatic agents as well as to the premises of diplomatic missions and private residences of diplomatic agents.

Without prejudice to their privileges and immunities, it shall be the duty of the monitoring personnel to respect the laws and regulations of the State in whose territory the inspection is to be carried out, in so far as such laws and regulations do not impede in any way whatsoever the proper exercising of the rights and functions provided for by the Treaty and this Protocol.

OPERATIONAL MANUALS

In addition to the Treaty and its Protocols the following Operational Manuals should be established to guide the operation of the various components of the verification system:

- Operational Manual for International Exchange of Seismological Data;
- Operational Manual for the Surveillance of Radionuclides in the Atmosphere;
- Operational Manual for Satellite Data Processing;
- Operational Manual for International On-site Inspections;
- Operational Manual for On-Site Observations of Large Non-Nuclear Explosions.

These manuals are not an integral part of the Treaty and can be changed by the Technical Secretariat in consultation with States Parties. The Executive Council shall be informed of changes in the Operational Manuals.